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Colorado. Laws, statutes, etc.
Laws.

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LAWS

PASSED AT THE

THIRD SESSION

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF COLORADO,

CONVENED AT DENVER

ON THE

FIFTH DAY OF JANUARY, A. D. 1881.

PUBLISHED BY AUTHORITY.

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1881.

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NORMAN H. MELDRUM,
Secretary of State, for the use of the State of Colorado, in the office of the Librarian of Congress, at Washington, D. C.

CERTIFICATE.

STATE OF COLORADO, } ss.
Secretary's Office. }

I, NORMAN H. MELDRUM, Secretary of State of the State of Colorado, do hereby certify that by virtue of the authority vested in me by an act of the First General Assembly of the State of Colorado, entitled "An act to provide for the public printing and publishing and distribution of the laws of this State," approved February 20, 1877, I have prepared for publication, and caused to be printed, a copy of all the laws enacted by the Third General Assembly of the State of Colorado; and I do further certify that I have carefully compared the said printed laws with the original manuscripts thereof, now on file in my office, and that the following are full, true and correct copies thereof.

SEAL.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Colorado, at the City of Denver, this fifteenth day of March, A. D. 1881.

NORMAN H. MELDRUM,
Secretary of State.

STATE OFFICERS

AND MEMBERS AND OFFICERS OF THE THIRD GENERAL ASSEMBLY.

EXECUTIVE DEPARTMENT.

NAME.	POSITION.	POSTOFFICE.
Frederick W. Pitkin	Governor	Denver.
Horace A. W. Tabor	Lieut. Governor, *de facto*	Denver.
M. J. Gavisk	Private Sec'y of Governor	Denver.
Norman H. Meldrum	Secretary of State	Denver.
James M. Galloway	Dep't Sec'y of State	Denver.
George R. Culver	Recording Clerk	Denver.
William C. Sanders	State Treasurer	Denver.
Horace E. Wheeler	Deputy Treasurer	Denver.
Joseph A. Davis	State Auditor	Denver.
William D. Peirce	Clerk of Auditor	Denver.
Charles H. Toll	Attorney General	Denver.
Leonidas S. Cornell	Supt. Public Instruction	Denver.

OFFICERS APPOINTED.

NAME.	POSITION.	POSTOFFICE.
J. Alden Smith	State Geologist	Boulder.
Eugene K. Stimson	State Engineer	Denver.
Wilson E. Sisty	State Fish Commissioner	Brookvale.
William Weston	Commissioner of Mines	Ouray.
Joseph C. Shattuck	Sec'y State Land Board	Denver.

JUDICIAL DEPARTMENT.

SUPREME COURT.

NAME.	POSITION.	POSTOFFICE.
Samuel H. Elbert	Chief Justice	Denver.
Wilbur F. Stone	Associate Justice	Denver.
William E. Beck	Associate Justice	Denver.
Keyes Danforth	Clerk of Court	Denver.

DISTRICT COURT JUDGES.

NAME.	POSITION.	POSTOFFICE.
Chester C. Carpenter	First District	Golden.
Victor A. Elliott	Second District	Denver.
John W. Henry	Third District	Pueblo.
Joseph C. Helm	Fourth District	Colorado Springs.
Jasper D. Ward	Fifth District	Leadville.
Charles D. Bradley	Sixth District	Silver Cliff.
Columbus W. Burris	Seventh District	Del Norte.

GENERAL ASSEMBLY.

MEMBERS OF SENATE.

NAME.	POSTOFFICE.	COUNTY.
Juan Antonio Baca	San Luis	Costilla.
Casimiro Barela	Barela	Las Animas.
Frank Church	Denver	Arapahoe.
Frank T. Cochrane	Hugo	Elbert.
A. Corder	Pueblo	Pueblo.
Allison H. De France	Golden	Jefferson.
H. H. Eddy	Chihuahua	Summit.
James M. Freeman	Greeley	Weld.
J. A. Gale	Conejos	Conejos.
Assyria Hall	Fairplay	Park.
Eugene P. Jacobson	Denver	Arapahoe.
James M. John	Trinidad	Las Animas.
Henry S. Kearny	Georgetown	Clear Creek.
Henry Neikirk	Boulder	Boulder.
Thomas C. Parrish	Rosita	Custer.
Fred. C. Peck	Lake City	Hinsdale.
Ledru R. Rhodes	Fort Collins	Larimer.
M. A. Rogers	Denver	Arapahoe.
J. S. Stanger	Denver	Arapahoe.
Rienzi Streeter	Longmont	Boulder.
C. E. Stubbs	Colorado Springs	El Paso.
Clemente Trujillo	Huerfano	Huerfano.
A. S. Weston	Leadville	Lake.
E. O. Wolcott	Georgetown	Clear Creek.
H. R. Wolcott	Black Hawk	Gilpin.

OFFICERS OF SENATE.

NAME.	POSITION.	POSTOFFICE.
Horace A. W. Tabor	President *ex-officio*	Denver.
Henry R. Wolcott	President *pro tem*	Black Hawk.
William M. Clark	Secretary	Leadville.
James M. Cannon	Assistant Secretary	Hugo
W. W. Orrick	Reading Clerk	Buena Vista
D. W. Willey	Sergeant-At-Arms	Montezuma.
James M. Swem	Ass't Sergeant-At-Arms,	Denver.
William Gove	Enrolling Clerk	Denver.
Miss Rose Hathaway	Ass't Enrolling Clerk	Denver.
Owen J. Kennedy	Engrossing Clerk	Colorado Springs.
Miss Tenney Nichols	Ass't Engrossing Clerk	Greeley.
Charles M. Clinton	Messenger	Denver.
Joseph Cotter	Ass't Messenger	Virginia City.
Rev. H. S. Hilton	Chaplain	Denver.

MEMBERS OF HOUSE.

NAME.	POSTOFFICE.	COUNTY.
Jose R. Aguilar	Apishapa	Las Animas.
Ezra D. Baker	Gothic	Gunnison.
John B. Ballard	Black Hawk	Gilpin.
Charles W. Barker	Manitou	El Paso.
M. Beshoar	Trinidad	Las Animas.
A. Bergh	Fairplay	Park.
William H. Birchard	Deer Trail	Arapahoe.
Joseph W. Bowles	Littleton	Arapahoe.
Samuel M. Breath	Nederland	Boulder.
Jared L. Brush	Greeley	Weld.
Charles P. Bryan	Idaho Springs	Clear Creek.
John Bunney	Central City	Gilpin.
Mason B. Carpenter	Denver	Arapahoe.
John S. Coulter	Georgetown	Clear Creek.
James B. Cox	Pueblo	Pueblo.

MEMBERS OF HOUSE.—CONTINUED.

NAME.	POSTOFFICE.	COUNTY.
Juan B. Cruz	Walsenburg	Huerfano.
L. H. Dickson	Longmont	Boulder.
George Engl	Frankstown	Douglas.
Marcus A. Foster	Colorado Springs	El Paso.
Jose A. Garcia	Conejos	Conejos.
Henry Gebhard	Agate	Elbert.
Orson F. A. Greene	Boulder	Boulder.
John T. Gunnell	Denver	Arapahoe.
F. J. Hartman	Saguache	Saguache.
John A. Hoagland	Golden	Jefferson.
Samuel W. Horner	Del Norte	Rio Grande.
Arthur W. Hudson	Silverton	San Juan.
Thomas H. Johnson	Loveland	Larimer.
Samuel A. King	Silver Plume	Clear Creek.
Herman F. Lauter	Denver	Arapahoe.
Henry Lee	Golden	Jefferson.
Andrew Lumry	Platteville	Weld.
Abram Lyon	Bald Mountain	Gilpin.
Antonio J. Martinez	Gardner	Huerfano.
Jose B. Martinez	Trinidad	Las Animas.
James A. McCandlass	Florence	Fremont.
Timothy S. McClure	Animas City	La Plata.
Julius A. Myers	Denver	Arapahoe.
Preston Nutter	Lake City	Hinsdale.
George S. Oatman	Denver	Arapahoe.
James B. Orman	Pueblo	Pueblo.
John W. Prowers	West Las Animas	Bent.
James J. Rowen	Silver Cliff	Custer.
Antonio A Salazar	San Luis	Costilla.
Albert H. Smart	Hot Sulphur Springs	Grand.
James W. Swisher	Montezuma	Summit.
Jesus M. Valdez	Conejos	Conejos.
William O. Wise	Canfield	Boulder.

OFFICERS OF HOUSE.

NAME.	POSITION.	POSTOFFICE.
William H. Doe	Speaker	Idaho Springs.
R. M. Stevenson	Chief Clerk	Pueblo.
M. R. Moore	Assistant Clerk	Selida.
R. L. Hornbrook	Sergeant-at-Arms	Grand Lake.
P. O. Gaynor	Ass't Sergeant-at-Arms	Alma.
George W. Stoner	Enrolling Clerk	Silverton.
Charles Gleim	Ass't Enrolling Clerk	Denver.
E. Boedecker	Engrossing Clerk	Loveland.
Miss T. E. Dresser	Ass't Engrossing Clerk	Greeley.
H. S. Lyons	Messenger	Denver.
Walter Clark	Assistant Messenger	Denver.
Arthur Crater	Assistant Messenger	Denver.
Charles J. Howland	Assistant Messenger	Denver.
Charles S. Uzzell	Chaplain	Golden.

MILITIA OFFICERS.

GOVERNOR'S STAFF.

NAME.	POSITION.	POSTOFFICE.
R. M. Stevenson	Adjutant-General	Denver.
A. H. Jones	Inspector-General	Denver.
Philip Trounstine	Aid-de-camp	Denver.
William Moore	Aid-de-camp	Idaho Springs.
M. L. Paddock	Military Secretary	Denver.

DIVISION OFFICERS.

FIRST DIVISION.

NAME.	POSITION.	POSTOFFICE.
David J. Cook	Major-General	Denver.
John A. Ellet	Brigadier-General	Boulder.
R. W. Woodbury	Brigadier-General	Denver.

SECOND DIVISION.

NAME.	POSITION.	POSTOFFICE.
A. P. Curry	Major-General	Leadville.
John T. McNeely	Brigadier-General	Silver Cliff.
U. M. Curtis	Brigadier-General	Gunnison City.
C. C. Howell	Brigadier-General	Leadville.

OFFICERS OF STATE INSTITUTIONS.

BOARD OF REGENTS OF THE STATE UNIVERSITY.

NAME.	POSTOFFICE.	COUNTY.
George Tritch	Denver	Arapahoe.
Junius Berkley	Boulder	Boulder.
Horace M. Hale	Central	Gilpin.
James Rice	Pueblo	Pueblo.
Joseph C. Shattuck	Denver	Arapahoe.
Max Herman	Boulder	Boulder.

COMMISSIONERS OF THE STATE BOARD OF AGRICULTURE.

NAME.	POSTOFFICE.	COUNTY.
B. S. La Grange	Greeley	Weld.
P. M. Hinman	Ni Wot	Boulder.
W. F. Watrous	Fort Collins	Larimer.
John J. Ryan	Loveland	Larimer.
Ozro Brockett	Frankstown	Douglas.
Henry Foote	Del Norte	Rio Grande.
David Boyd	Greeley	Weld.
R. A. Southworth	Denver	Arapahoe.
Frederick W. Pitkin, Governor,		
E E. Edwards, President of College,		*ex officio* Members of Board.

OFFICERS.

E. E. Edwards, D. D.	President of College.
B. S. LaGrange	President of Board.
P. M. Hinman	Secretary of Board.
John J. Ryan	Treasurer of Board.

COMMISSIONERS OF THE STATE SCHOOL OF MINES.

NAME.	POSTOFFICE.	COUNTY.
James T. Smith	Denver	Arapahoe.
Frederick Steinhauer	Denver	Arapahoe.
Edward L. Johnson	Denver	Arapahoe.
Francis E. Everett	Golden	Jefferson.
Reuben C. Wells	Golden	Jefferson.

OFFICERS.

Frederick Steinhauer	President.
James T. Smith	Secretary.
Francis E. Everett	Treasurer.

COMMISSIONERS OF THE MUTE AND BLIND INSTITUTE.

NAME.	POSTOFFICE.	COUNTY.
R. G. Buckingham	Denver	Arapahoe.
George H Stewart	Colorado Springs	El Paso.
Matt France	Colorado Springs	El Paso.

COMMISSIONERS OF PENITENTIARY.

NAME.	POSTOFFICE.	COUNTY.
W. S. McCutcheon	Evans	Weld.
D. H. Nichols	Boulder	Boulder.
Frank A. Taylor	Lake City	Hinsdale.

WARDEN.

NAME.	POSTOFFICE.	COUNTY.
Willard B. Felton	Cañon City	Fremont.

COMMISSIONERS INSANE ASYLUM.

NAME.	POSTOFFICE.	COUNTY.
Theodore F. Brown	Denver	Arapahoe.
O. H. P. Baxter	Pueblo	Pueblo.
Jose Boniface Romero	Conejos	Conejos.

BOARD OF CONTROL OF THE STATE INDUSTRIAL SCHOOL.

NAME.	POSTOFFICE.	COUNTY.
Silas W. Fisher	Golden	Jefferson.
J. Frank Gardner	Frankstown	Douglas.
A. L. Emeigh	Fort Collins	Larimer.

MEMBERS STATE BOARD OF HEALTH.

NAME.	POSTOFFICE.
W. Edmondson	Denver.
Charles Ambrook	Boulder.
H. A. Lemen	Denver.
H. K. Steele	Denver.
H. K. Palmer	Trinidad.
T. G. Horn	Colorado Springs.
F. J. Bancroft	Denver.
D. H. Dougan	Leadville.
B. P. Anderson	Colorado Springs.

OFFICERS.

H. K. Steele, *President*	Denver.
W. Edmondson, *Secretary*	Denver.
H. A. Lemen, *Treasurer*	Denver.

SESSION LAWS.

1881.

AN ACT

TO AMEND CHAPTER SEVEN OF THE GENERAL LAWS, ENTITLED "AN ACT TO ESTABLISH A STATE BOARD OF AGRICULTURE, AND DEFINE ITS DUTIES."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section four of chapter seven of the General Laws is hereby amended so as to read as follows: "They shall meet at the state agricultural college on the last Wednesday of each year, until such time as the board shall determine to commence the erection of suitable college buildings, and thereafter they shall meet on the last Wednesday of January, April and August of each year, and annually on the second Wednesday of December, and may meet at such other time and place as they may determine. In case of an emergency, arising from whatever cause, the president of the board may call special meetings of the board."

When and where meetings of board to be held.

SEC. 2. Section ten of said chapter seven is hereby amended so as to read as follows:

The secretary shall report to the Governor on or before the third Monday in December of each year, which report shall embrace all such statements, accounts, statistics,

Secretary to report to Governor when.

prize essays, farmer's institute papers, and other information relative to agriculture in general, proceedings of the state board of agriculture, and of the state agricultural college and farm.

SEC. 3. Section fifteen of said chapter seven is hereby amended so as to read as follows:

Programme.

The board and faculty shall make, annually, a programme of theoretical and practical instruction.

SEC. 4. Section eighteen of said chapter seven is hereby amended so as to read as follows:

Daily labor on farm.

Three hours of each day shall be devoted by every male student of the college to labor on the farm; and every female student shall devote three hours of each day to labor in such department of work as may be assigned them by the board and faculty; and no one shall be exempt, except for physical disability. By a vote of the board of agriculture at such sessions and in such exigencies as demand it, the hours of labor may be increased to four hours or diminished to two hours.

Hours of labor may be increased or diminished.

SEC. 5. Section twenty-one of said chapter seven is hereby amended so as to read as follows: It shall be the duty of the state board of agriculture to choose a president of the state agricultural college before the first academic term of the institution; they shall then proceed to choose such professors, tutors, and employés, as the necessities of the institution demand. In case of vacancy in the office of president, or in case a suitable man cannot be selected, the senior professor shall perform the duties of the office until the board shall elect a president.

Selection of president, tutors, etc. when.

SEC. 6. Section twenty-three of said chapter seven is hereby amended so as to read as follows: The board, with the advice of the faculty, shall prescribe the books to be used in the institution, and also confer such degrees, or testimonials, as are conferred by similar institutions.

Board to prescribe books and confer degrees.

SEC. 7. Section twenty-four of said chapter seven is hereby amended so as to read as follows: The president,

Faculty, how constituted.

professors, and farm managers shall constitute the faculty of the state agricultural college. The president of the college shall be the president of the faculty. The secretary of the state board of agriculture shall be a member and secretary of the faculty.

SEC. 8. Section twenty-seven of said chapter seven is hereby repealed, and the following adopted in place thereof: The head of each department, through the president of the faculty, shall make a report to the board, at the regular meetings held by the board the last Wednesday of April and August, giving in detail the work done in each department, and shall make an annual report to the board on the second Wednesday of December, which report shall be classified as follows: First, a full and accurate report of all experimental work; second, a full and accurate report of all work done on the college grounds and in the horticultural department; third, a full and accurate report of the general farm work; fourth, a full and accurate report of the floral department; fifth, a full and accurate report, by the president of the college, which shall embrace everything relating to the college not otherwise reported, and may contain a summary of the whole. The president of the faculty shall cause to be made annually an inventory of all property belonging to the state agricultural college, and shall report the same to the board at each annual meeting. The faculty, by a majority vote, may make such recommendations to the board as may be agreed upon, signed by the president and secretary.

Report; when and by whom made; what to contain.

Inventory of property.

SEC. 9. An emergency existing by reason of the changes made in the law, and the annual election of the officers of the board occurring on the last Wednesday in February, 1881; therefore, this act shall take effect immediately after its passage.

Emergency.

Approved February 9, 1881.

AN ACT

TO FIX THE RATIOS FOR THE APPORTIONMENT OF THE SENATORS AND REPRESENTATIVES IN THE STATE OF COLORADO, AND TO REVISE AND ADJUST SAID APPORTIONMENT ACCORDING TO SAID RATIOS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the following ratios are hereby fixed and established for the apportionment of the Senators and Representatives of the General Assembly of the State of Colorado, provided for by the constitution of this state, and said apportionment shall be made as near as may be in accordance with said ratios.

Ratios for senatorial apportionment.

SEC. 2. The ratios for the senatorial apportionment shall be, first, one senator for the first five thousand population, second, one senator for each nine thousand population thereafter, with one senator for fractions over seven thousand population.

Ratios for representative apportionment.

SEC. 3. The ratios for representative apportionment shall be, first, one representative for the first one thousand population, second, one representative for each five thousand population thereafter, with one representative for each fraction over three thousand population.

Manner of application of above ratios.

SEC. 4. In applying the aforesaid ratios to the population of the several counties of this state for the purpose of revising and adjusting the said senatorial and representative apportionment, each county in the state shall receive separate representation in all cases where the same is practicable, and in cases where counties have an excess of population over their proper senatorial representation, such excess may be considered in determining the representative representation of such county, and *vice versa.*

Senatorial districts; how constituted, numbered, etc.

SEC. 5. Until otherwise provided by law, this state shall be divided into senatorial districts constituted

numbered and entitled to the number of senators named as follows: The county of Weld shall constitute the first senatorial district and be entitled to one senator; the counties of Larimer, Grand and Routt shall constitute the second senatorial district and be entitled to one senator; the county of Boulder shall constitute the third senatorial district and be entitled to one senator; the county of Gilpin shall constitute the fourth senatorial district and be entitled to one senator; the county of Clear Creek shall constitute the fifth senatorial district and be entitled to one senator; the county of Arapahoe shall constitute the sixth senatorial district and be entitled to four senators; the county of Jefferson shall constitute the seventh senatorial district and be entitled to one senator; the county of El Paso shall constitute the eighth senatorial district and be entitled to one senator; the counties of Arapahoe and Douglas shall constitute the ninth senatorial district and be entitled to one senator; the counties of Arapahoe, Elbert and Bent shall constitute the tenth senatorial district and be entitled to one senator; the county of Lake shall constitute the eleventh senatorial district and be entitled to three senators; the county of Summit shall constitute the twelfth senatorial district and be entitled to one senator; the county of Gunnison shall constitute the thirteenth senatorial district and be entitled to one senator; the counties of Fremont and Park shall constitute the fourteenth senatorial district and be entitled to one senator; the county of Chaffee shall constitute the fifteenth senatorial district and be entitled to one senator; the county of Pueblo shall constitute the sixteenth senatorial district and be entitled to one senator; the county of Custer shall constitute the seventeenth senatorial district and be entitled to one senator; the county of Las Animas shall constitute the eighteenth senatorial district and be entitled to one senator; the counties of Huerfano and Costilla shall constitute the nineteenth senatorial district and be entitled to one senator; the county of Conejos shall constitute the twentieth senatorial

Dist. No. 1. Dist. No. 2. Dist. No. 3. Dist. No. 4. Dist. No. 5. Dist. No. 6. Dist. No. 7. Dist. No. 8. Dist. No. 9. Dist. No. 10. Dist. No. 11. Dist. No. 12. Dist. No. 13. Dist. No. 14. Dist. No. 15. Dist. No. 16. Dist. No. 17. Dist. No. 18. Dist. No. 19. Dist. No. 20.

district and be entitled to one senator; the counties of La Plata, San Juan, Ouray, Hinsdale, Rio Grande and Saguache shall constitute the twenty-first senatorial district and be entitled to one senator.

Dist. No. 21.

Representative apportionment.

SEC. 6. Until otherwise provided by law, the representatives shall be divided among the counties of this state as follows: The county of Arapahoe shall have eight; the county of Lake shall have four; the county of Boulder shall have three; the counties of Clear Creek, El Paso, Custer, Las Animas, Pueblo, Gilpin and Jefferson shall each have two; the counties of Park, Fremont, Weld, Summit, Chaffee, Conejos, Costilla, Huerfano, Elbert, Bent, Douglas, Saguache, Rio Grande, Ouray, Hinsdale, San Juan, Gunnison, La Plata and Larimer shall each have one, and the counties of Grand and Routt jointly one.

Approved February 21, 1881.

AN ACT

TO PROVIDE A FUND FOR ERECTING ADDITIONAL BUILDINGS AT THE MUTE AND BLIND INSTITUTE AND FOR OTHER IMPROVEMENTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That for the purpose of erecting additional buildings for the mute and blind institute, furnishing the same, and for the purpose of improving the grounds, and supplying the building with gas, printing press and type, the sum of twenty thousand dollars ($20,000) is hereby appropriated out of any fund in the state treasury not otherwise appropriated.

SEC. 2. Said fund shall be used exclusively for the purpose aforesaid.

SEC. 3. The Auditor of State, upon the order of the president of the board of trustees, countersigned by the secretary thereof, shall draw his warrant in favor of the treasurer of said board, for the sum above specified.

Approved February 11, 1881.

AN ACT

TO PROVIDE A FUND FOR THE PURCHASE OF LAW BOOKS FOR THE LIBRARY OF THE SUPREME COURT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be appropriated three thousand dollars out of any funds in the state treasury not otherwise appropriated, for the purchase of law books for the library of the supreme court of this state.

SEC. 2. The judges of the supreme court shall determine what books shall be purchased, and the auditor is hereby authorized to issue his warrants for the payment of the same upon the certificate of the supreme court judges, or the chief justice.

Approved February 4, 1881.

AN ACT

TO PROVIDE FOR THE PAYMENT OF SALARY AND EXPENSES OF THE STATE FISH COMMISSIONER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The sum of thirty-five hundred dollars is hereby appropriated for the purpose of paying the salary and necessary expenses of the state fish commissioner dur- Appropriation.

ing the year commencing July 1, 1881, and ending June 30, 1882, in performing the duties required of him by law in relation to the propagation and preservation of food-fishes, which sum the State Treasurer shall, from time to time, pay to the said commissioner on the warrant of the auditor, as vouchers therefore [therefor] shall be duly exhibited to the said auditor and approved by the Governor.

SEC. 2. The further sum of three thousand dollars is hereby appropriated for the above purpose for the year commencing July 1, 1882, and ending June 30, 1883, to be audited, paid and allowed in like manner.

Approved March 14, 1881.

AN ACT

TO PROVIDE FOR THE REPRESENTATION OF THE STATE OF COLORADO AT THE YORKTOWN CENTENNIAL CELEBRATION.

Be it enacted by the General Assembly of the State of Colorado:

THAT, WHEREAS, in accordance with the joint resolution of Congress, a commissioner for the State of Colorado has been appointed by the Governor thereof, to arrange for a suitable representation of said state, at the approaching Centennial at Yorktown.

SECTION 1. Therefore, to enable said commissioner to properly carry out said object, there be and hereby is appropriated the sum of one thousand dollars, to be expended by said commissioner under the general supervision of the Governor of Colorado.

SEC. 2. Said money shall be paid upon warrants drawn by the Auditor of State upon the State Treasurer.

Approved February 12, 1881.

AN ACT

MAKING APPROPRIATION FOR THE STATE BOARD OF HEALTH FOR THE YEARS 1881 AND 1882.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That, for the purpose of paying all expenses of the state board of health, during the years 1881 and 1882, there is hereby appropriated the sum of eight hundred dollars, out of any money in the state treasury not otherwise appropriated.

SEC. 2. That inasmuch as there are no funds in the treasury to the credit of this fund, therefore, it is the sense of this General Assembly that an emergency exists, and that this act shall be in force on and after its passage.

Approved February 12, 1881.

AN ACT

MAKING APPROPRIATIONS TO PAY OUTSTANDING STATE CERTIFICATES OF INDEBTEDNESS, AND THE INTEREST THEREON.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there is hereby appropriated, out of any money in the state treasury not otherwise appropriated, in addition to the unexpended balance remaining on hand in this fund, which balance is hereby transferred to this fund, the sum of sixty-seven thousand and fifty dollars, to pay outstanding state certificates of indebtedness heretofore issued in pursuance of law, and to pay the interest on the same.

SEC. 2. Inasmuch as it will become necessary to draw upon this fund before the expiration of ninety days, therefore, it is the sense of this General Assembly that an emergency exists, and that this act shall be in force on and after its passage.

Approved February 12, 1881.

AN ACT

MAKING APPROPRIATIONS FOR EXPENSE OF SELECTING, LOCATING, APPRAISING, LEASING AND SELLING LAND DONATED TO THE STATE BY THE UNITED STATES, AND THE EXPENSES OF THE STATE BOARD OF LAND COMMISSIONERS FOR THE YEARS 1881 AND 1882.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be and hereby is appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of three thousand (3,000) dollars to pay the expenses of selecting, locating, appraising, leasing and selling land donated to the state by the United States, and the expenses of the state board of land commissioners for the years 1881 and 1882.

SEC. 2. That the unexpended balance remaining on hand in the state treasury in the register and receiver's fund, is hereby transferred to the register and receiver fund of 1881 and 1882, and the same is hereby appropriated to pay the United States register's and receiver's fees in locating state lands donated by the United States, for the years 1881 and 1882.

SEC. 3. It is the opinion of this General Assembly that an emergency exists; therefore, this act shall be in force on and after its passage.

Approved February 16, 1881.

AN ACT

TO APPROPRIATE FIVE THOUSAND DOLLARS FOR THE BUILDING OF A DORMITORY AND FURNISHING THE LABORATORY OF THE STATE AGRICULTURAL COLLEGE.

Be it enacted by the General Assembly of the State of Colorado:

Appropriation.

SECTION 1. The sum of five thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to enable the state board of agriculture to furnish a laboratory and erect a dormitory for the use of the state agricultural college.

How funds used.

SEC. 2. The funds appropriated by section one of this act shall be used exclusively for the purpose therein stated.

When Auditor to draw warrants.

SEC. 3. The Auditor of State is hereby authorized to draw his warrants on the fund created by section one of this act, on the presentation of certificates of indebtedness issued by the state board of agriculture, signed by the president of the board and countersigned by the secretary.

Board to decide on plans and specifications.

SEC. 4. It shall be the duty of the state board of agriculture on the passage of this act to decide upon plans and specifications for the building of a dormitory and [for furnishing the] laboratory on college grounds, and proceed at once to erect [and furnish] the same.

Approved February 19, 1881.

AN ACT

FOR THE RELIEF OF THE GERMAN NATIONAL BANK OF DENVER AND TO AUTHORIZE THE REIMBURSEMENT TO SAID BANK OF MONEYS ADVANCED BY IT UPON CERTAIN CERTIFICATES OF SERVICE AND ATTENDANCE, ISSUED BY THE PRESIDENT AND SECRETARY OF THE SENATE, AT THE SECOND SESSION OF THE GENERAL ASSEMBLY.

Preamble.

WHEREAS, at the second session of the General Assembly there was issued by the president and secretary of the senate, the following certificates of service, attendance, and mileage, for the following amounts, to wit:

No. 78, to W. W. Orrick, secretary (under resolutions of the senate), for his mileage, $112.80.

No. 79, to O. J. Kennedy, for attendance as engrossing clerk, from February 4, 1879, to February 9, 1879, inclusive, at four dollars per diem, and mileage, 156 miles, at fifteen cents per mile, $47.40.

No. 80, to W. P. Bishop, for attendance as assistant engrossing clerk, and mileage, 752 miles, at fifteen cents per mile, $112.80.

No. 90, to W. R. Bradley, for attendance as a witness before the committee on military fund, from February 5, 1879, to February 7, 1879, inclusive, at two dollars and fifty cents per diem, and mileage on 108 miles, at ten cents per mile, $10.80.

No. 100, to Thomas F. McClosky, for attendance as a witness before the committee on military fund, from February 5 to February 7, 1879, inclusive, at two dollars and fifty cents per diem, and mileage, ninety-six miles, at ten cents per mile, $17.10.

No. 101, to C. H. Wenzel, for attendance as witness before committee on military fund, from February 5 to February 7, 1879, inclusive, at two dollars and fifty cents per diem, and mileage on 108 miles, at ten cents per mile, $18.30.

No. 107, to W. P. Bishop, for service as assistant engrossing clerk, from January 19 to February 9, 1879, inclusive, at four dollars per diem, $88.00.

All which certificates were issued on or before the 10th day of February, 1879, and on or about that day were purchased by the German National Bank of Denver, for the full amount expressed to be due therein; and,

WHEREAS, The Auditor of State hath refused to allow said certificates; now, therefore,

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the Treasurer of State pay to the German National Bank the sum of $407.20, being the amount so disbursed by said bank, with interest, and the sum of $407.20, or so much thereof as may be necessary, is hereby appropriated for the purpose of such payment. The Auditor of State, upon surrender of the before recited certificates, shall issue his warrant to the said bank for the above amount. Treasurer to pay bank.

Approved February 19, 1881.

AN ACT

TO PROVIDE FOR THE ORDINARY EXPENSES OF THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE STATE FOR THE YEARS 1881 AND 1882.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That for the purpose of defraying the ordinary expenses of the executive, legislative and judicial departments of the state, for the years 1881 and 1882, the following sums are hereby appropriated out of any funds in the state treasury not otherwise appropriated: For the Appropriations.

salaries of the officers of the executive department, and the judges of the supreme and district courts, district attorneys, private secretary of the Governor, secretary of the state board of land commissioners, and clerk of the Secretary of State, the sum of fifty-four thousand and five hundred dollars for the year 1881, and fifty-four thousand and five hundred dollars for the year 1882. For the general contingent expenses of the executive and judicial departments, the sum of six thousand dollars for the year 1881, and the sum of six thousand dollars for the year 1882. For incidental printing required by law, the sum of four thousand dollars. For printing required by the General Assembly, including the laws and journals of the third General Assembly, the sum of twenty thousand dollars. For rent of the executive and judicial departments the sum of six thousand and five hundred dollars for the year 1881, and six thousand and five hundred dollars for the year 1882. For the incidental expenses of the executive, legislative and judicial departments, including pay of janitors, coal, water, gas, cleaning vaults, stationery, and other incidental expenses of said departments, the sum of ten thousand dollars. For the general contingent expenses of the General Assembly, including rent of halls, committee rooms, stationery, supplies of all kinds, and for labor, the sum of seven thousand dollars. To pay the assistant clerk of the house of representatives for furnishing a duplicate copy of the house journal for the printer, the sum of two hundred dollars, or so much thereof as may be necessary to pay for the same at the rate of fifteen cents per folio of one hundred words. To pay the assistant secretary of the senate for furnishing a duplicate copy of the senate journal for the printer, the sum of one hundred and fifty dollars, or so much thereof as may be necessary to pay for the same at the rate of fifteen cents per folio of one hundred words. To pay the expenses of the joint committee appointed to investigate the management of the state penitentiary, the sum of one thousand dollars, or so much thereof as may be necessary. To pay the expenses of the joint committee

appointed to investigate the assessment of Arapahoe and other counties, the sum of five hundred dollars, or so much thereof as may be necessary. For per diem and mileage of members, officers and employés of the third General Assembly, the sum of twenty-five thousand dollars. For copying, translating and indexing the laws, the sum of three thousand dollars; for translating the Governor's message and inaugural address into the Spanish language, two hundred dollars ($200).

SEC. 2. Any balance remaining to the credit of any fund herein mentioned at the end of the year 1881, shall be added to appropriation herein made to that fund for the year 1882.

SEC. 3. Inasmuch as there is no money to the credit of some of the funds herein mentioned, it is the sense of this General Assembly that an emergency exists; therefore, this act shall be in force on and after its passage. Emergency.

Approved February 14, 1881.

AN ACT

TO ENCOURAGE AND ASSIST THE STATE HISTORICAL AND NATURAL HISTORY SOCIETY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be and is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of five hundred dollars, to assist the State Historical and Natural History Society to further the ends of its organization; *provided, however*, that no part of the money hereby appropriated shall be paid as compensation to any officer or member of the society; and the State Auditor shall draw his warrant on the State Treasurer upon vouchers ordered paid by the society and attested by the signature of the president and secretary. Appropriation.

Approved February 9, 1881.

AN ACT

MAKING APPROPRIATIONS TO PAY EXPENSES AND CLAIMS INCURRED UNDER THE LAW CONCERNING FUGITIVES FROM JUSTICE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be and is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of two thousand dollars, to defray the expenses and claims, already, or which may hereafter be incurred by the state under the law concerning fugitives from justice.

SEC. 2. Inasmuch as there are no funds in the state treasury to the credit of this fund, it is the sense of this General Assembly that an emergency exists; therefore, this act shall be in force on and after its passage.

Approved February 12, 1881.

AN ACT

TO REFUND TO THE COUNTY OF GUNNISON THE SUM OF NINE HUNDRED AND TWENTY-EIGHT DOLLARS AND FIFTY-FIVE CENTS, THE SAME BEING EXPENSES INCURRED AND PAID BY SAID COUNTY IN THE INVESTIGATION OF THE MURDER OF YOUNG JACKSON BY UTE INDIANS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the sum of nine hundred and twenty-eight dollars and fifty-five cents be and the same is hereby appropriated, to reimburse the county of Gunnison for expenses paid in the investigation of the murder of young Jackson by the Ute Indians.

SEC. 2. The Governor is hereby authorized to draw his warrant on the treasurer of said state, in favor of the county commissioners of said Gunnison county, for the aforesaid sum.

Approved February 12, 1881.

AN ACT

TO PROVIDE A FUND FOR THE "WORLD'S FAIR" COMMISSIONERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there is hereby appropriated out of any moneys not otherwise appropriated the sum of twenty thousand (20,000) dollars, to be expended by the "world's fair" commissioners of Colorado, or so much thereof as may be necessary to secure for Colorado a proper exhibition of her different industries at the "world's fair," to be held at the city of New York in the year 1883.

SEC. 2. The Auditor of State shall draw his warrant upon this fund upon the order of the board of world's fair commissioners, countersigned by the Governor, and the same shall be paid by the treasurer.

Approved February 12, 1881.

AN ACT

TO PROVIDE FOR THE PAYMENT OF CERTAIN EXPENSES INCURRED IN THE PRESERVATION OF THE PEACE DURING THE YEAR 1880.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be and is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, the sum of thirteen hundred and one dollars and forty cents, or so much thereof as may be necessary for the payment of the expenses incurred for the preservation of the peace in the county of Lake, during the year 1880; *provided*, that no claim for any such expense shall be paid unless the same shall have been approved by the military board; and, *provided, further*, that no claim shall be acted upon or approved by said board unless the same shall be presented to said board within sixty days from the date on which this act takes effect.

SEC. 2. In the opinion of the General Assembly an emergency exists; therefore, this act shall take effect from and after its passage.

Approved February 16, 1881.

AN ACT

FOR THE RELIEF OF JULIUS LEVY.

WHEREAS, Julius Levy, in the execution an [and] service of certain subpœnas, issued by the chairman of a joint military investigation committee of the senate and house of representatives of the legislature of the State of Colorado, of the second session of said legislature, became

entitled to fees for mileage and service to the amount of forty-eight dollars and seventy cents ($48.70); and,

WHEREAS, no appropriation having been made by said legislature for the payment of said amount, in the absence of which special appropriation there being no means or authority for the payment of said claim; *therefore*,

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the sum of forty-eight dollars and seventy cents ($48.70) be, and the same is hereby, appropriated out of any moneys in the treasury of the State of Colorado, not otherwise appropriated, to be paid to the said Julius Lewy [Levy], by a warrant drawn on the treasurer in his favor for the said sum of forty-eight dollars and seventy cents, and that the auditor of the state be authorized to draw the same forthwith, and deliver the same to said Julius Lewy [Levy].

SEC. 2. It appearing that an emergency, according to the constitution, exists, why this act should go into force immediately from and after its passage, therefore the same shall take effect and be in force from and after its passage.

Approved February 16, 1881.

AN ACT

TO REGULATE ASSIGNMENTS FOR THE BENEFIT OF CREDITORS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Whenever any person or corporation shall hereafter make an assignment of his or its estate for the benefit of creditors, the assignee, nominated in the deed of assignments, elected, or appointed, shall be required to pay

in full, from the proceeds of the estate, all moneys *bona fide* due to the servants, laborers, and employés of such assignor for their wages accruing during the six months next preceding the date of such assignment, but to exceed in no event the sum of fifty dollars to any one person, and then remaining unpaid. All the residue of the proceeds of such estate shall be distributed ratably among all other creditors, and any preference of one creditor over another, except as above allowed, shall be entirely null and void, anything in the deed of assignment to the contrary notwithstanding.

Approved February 12, 1881.

AN ACT

RELATING TO ATTACHMENT IN COURTS OF RECORD AND IN JUSTICE COURTS.

Be it enacted by the General Assembly of the State of Colorado:

Affidavit required.

SECTION 1. Section ninety-two of chapter six, of an act providing a system of procedure in civil actions in the courts of justice of the State of Colorado, approved March 17, 1877, be and the same is hereby amended so as to read as follows:

Grounds upon which a writ may issue.

(1) No writ of attachment shall issue unless the plaintiff, his agent or attorney, or some credible person for him, shall file in the office of the clerk of a district court, or in the office of the clerk of a county court in the state, or with the judge of said county court where no clerk is provided, in cases where said courts have jurisdiction given to them by law, an affidavit setting forth that any person is indebted to such creditor, stating the nature and amount of such indebtedness as near as may be, and

alleging any one or more of the following causes for attachment, viz.:

First. That the defendant is not a resident of this state.

Second. That the defendant is a foreign corporation.

Third. That the defendant is a corporation whose chief office or place of business is out of the state.

Fourth. That the defendant conceals himself or stands in defiance of an officer, so that process of law cannot be served upon him, or that the defendant has for more than four months been absent from the state, or that for such length of time his whereabouts have been unknown, and that the indebtedness mentioned in the affidavit has been due during all the said period.

Fifth. That the defendant is about to remove his property, or effects, or a material part thereof, out of this state, with intent to defraud, or hinder or delay his creditor [creditors], or some one or more of them.

Sixth. That the defendant has fraudulently conveyed, or transferred or assigned his property or effects, so as to hinder or delay his creditors, or some one or more of them.

Seventh. That the defendant has fraudulently concealed or removed or disposed of his property or effects, so as to hinder or delay his creditors, or some one or more of them.

Eighth. That the defendant is about to fraudulently convey or transfer, or assign his property or effects, so as to hinder or delay his creditors, or some one or more of them.

Ninth. That the defendant is about to fraudulently conceal or remove or dispose of his property or effects, so as to hinder or delay his creditors; or that such debtor has departed or is about to depart from this state, with the intention of having his effects removed from this state.

Tenth. That the defendant has failed or refused to pay the price or value of any article or thing delivered to him, which he should have paid for upon the delivery thereof.

Eleventh. That the defendant has failed or refused to pay the price or value of any work or labor done or performed, or for any services rendered by the plaintiff, at the instance of the defendant, and which should have been paid at the completion of such work, or when such services were fully rendered.

Twelfth. That the defendant fraudulently contracted the debt, or fraudulently incurred the liability respecting which the suit is brought, or by false representations or false pretenses, or by any fraudulent conduct, procured money or property of the plaintiff.

Thirteenth. In every case where any affidavit shall be made and filed as aforesaid, it shall be lawful for such clerk to issue a writ of attachment, directed to the sheriff of the county, or to any other county as hereinafter provided, returnable like other writs or process in this act, commanding him to attach the lands, tenements, goods, chattels, rights, credits, moneys and effects of said debtor, of every kind, or so much thereof as will be sufficient to satisfy the claim sworn to, with interest and costs of suit, in whose hands or possession the same may be found.

Fourteenth. In all actions brought upon overdue promissory notes, bills of exchange, other written instruments for the direct payment of money, and upon book accounts, the creditor may have a writ of attachment issue upon complying with the provisions of this section.

Affidavit required.

SEC. 2. Section one of an act in relation to attachments issued out of justices' courts, approved February 8, 1879, be and the same is hereby amended so as to read as follows:

(2) If any creditor, or credible person for him, shall make and file with any justice of the peace, his affidavit

setting forth that the defendant in such affidavit named is justly indebted to such creditor, in a sum of money not exceeding three hundred dollars, upon a contract expressed or implied, stating the amount of such indebtedness, as near as may be, and shall also allege any one or more of the following grounds of attachment:

Upon what grounds writ may issue.

First. That the said debtor is a foreign corporation.

Second. That the said debtor is not a resident of this state.

Third. That said debtor conceals himself or stands in defiance of an officer, so that process of law cannot be served upon him, or that said debtor has been for four months last past absent from the state, or that for four months the whereabouts of said debtor have been unkown, and the debt for which suit is brought has been due during the said period of four months.

Fourth. That the said debtor has departed, or is about to depart from this state, with intent to have his property, or a material part thereof, removed from the state, or that the said debtor is about to remove his property from the state with the intent to hinder, delay or defraud his creditors.

Fifth. That said debtor has conveyed, transferred or assigned, or is about to convey, transfer or assign his property, with intent to hinder, delay. or defraud his creditors.

Sixth. That said debtor has concealed, removed or disposed, or is about to conceal, remove or dispose of his property with the intent of hindering, delaying or defrauding his creditors.

Seventh. That the debt is for an article or articles, the price or value of which should have paid at the time of the delivery thereof, and which the said debtor failed or refused to do.

Eighth. That the debt was for work and labor performed, which said debtor should have paid at the time when the work and labor was performed.

Ninth. That the said debtor fraudulently contracted or incurred the debt, or by false representation or false pretenses, or by any other fraudulent pretenses, procured the money, goods, chattels or effects of the plaintiff, the justice of the peace may at the time of issuing the summons in the action, or at any time afterwards before final judgment in the action, issue a writ of attachment against the personal property of the said debtor within his county, not by law exempt from execution, as security for any judgment which the plaintiff may recover in such action.

Tenth. In all suits brought upon overdue promissory notes, bills of exchange, other instruments of writing for the direct payment of money, and upon book accounts, the creditor may have a writ of attachment issued upon complying with the provisions of this act.

Approved February 21, 1881.

AN ACT

TO AMEND SECTION EIGHTEEN OF CHAPTER FIVE, ENTITLED "ATTORNEYS AT LAW" OF THE GENERAL LAWS OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section eighteen of chapter five, entitled "attorneys at law" of the General Laws of the State of Colorado, be, and the same is hereby repealed, and the following enacted in lieu thereof, as section eighteen of said chapter, viz: "Nothing in this chapter

shall be construed so as to prevent any male citizen over the age of twenty-one years, of good moral character, from practicing as an attorney in the county courts of this state, while sitting for probate business, without having obtained a license as an attorney as provided herein."

Approved February 8, 1881.

AN ACT

TO PROVIDE FOR SUBMITTING THE QUESTION OF THE PERMANENT LOCATION OF THE SEAT OF GOVERNMENT TO THE QUALIFIED ELECTORS OF THE STATE.

Be it enacted by the General Assembly of the State of Colorado:

Notice of submission of capital question; when and how sent.

SECTION 1. The Secretary of State shall at least thirty days previous to the general election to be held in the year one thousand eight hundred and eighty-one, make out and cause to be delivered or transmitted by registered letter, to the county clerk of each county, a notice in writing, stating that at the next general election the question of the permanent location of the seat of government is to be voted on by the qualified electors of the state.

Notice, when and how published.

SEC. 2. The several county clerks shall give notice in writing of the submission of the question, at the same time when they shall give notice of the general election of that year, and such notice of submission shall be published, mailed and posted in like manner and at the same time as said notice of election is now required to be; *provided*, that nothing herein is to prevent said notices from being embraced in a single instrument, or from being published, mailed and posted as such.

Form of ballot. Who may vote. Majority to decide. County Clerks to transmit abstract to Secretary of State.

SEC. 3. All persons voting on said question shall vote by separate ballot, whereon shall be placed the words, "For" (inserting here the name of the place) "as the seat of government." No person shall vote on this question who is not at the time a qualified elector of this state, and a majority of all the votes upon said question cast at said election shall be necessary to determine the location of said seat.

SEC. 4. It shall be the duty of the several county clerks to canvass and make an abstract of the votes on said question at the same time and in the same manner as in the case of a general election of state officers, and to transmit a copy of said abstract to the Secretary of State, and to file and record the original thereof, and to certify to the same, and to said copy, and affix to each the county seal in like manner and at the same time, as in the case of such election.

Canvass by state board; how made.

SEC. 5. The board of state canvassers shall canvass the abstracts of votes cast in the different counties of the state, on said question, in like manner and at the same time as is now provided in the case of a general election of state officers; and the provisions of law now in force for the casting of votes and the certifying and abstracting of the same, the transmission of said abstracts, in the procuring of tardy abstracts and the canvassing of abstracts, for any general election of state officers, in so far as the same are not inconsistent with any provision of this act, shall, as near as may be, apply to this casting of votes and ascertaining the result upon the question of the permanent location of the seat of government.

Certification to Governor.

SEC. 6. As soon as the board of state canvassers shall have certified their determination as to which of the places, if any, has a majority of all the votes cast at said election upon said question, they shall deliver their said certificate to the Governor, who shall thereupon announce the result so certified, by his proclamation over the seal of the state,

Result of election; how announced and published.

to be published for at least ten days in a newspaper having the largest daily circulation in the state, and thereupon the place so chosen shall become the permanent seat of government. The said certificate shall be recorded by the secretary as like certificates are now required to be by him recorded; and for that purpose the Governor shall file the same with him.

Secretary to record certificate.

SEC. 7. In case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted to the qualified electors of the state at the general election then next ensuing, substantially in the same manner as hereinbefore provided. The place having a majority of all the votes cast for said two places at said election, shall be declared the seat of government; and the result of said vote shall be ascertained and announced in like manner as provided in sections four, five and six of this act; and thereupon the place so chosen shall become the permanent seat of government.

In case of failure to determine question, how final choice made.

Approved February 1, 1881.

AN ACT

TO PROVIDE FOR THE IMPROVEMENT OF TEN ACRES OF LAND, BELONGING TO THE STATE OF COLORADO, WITHIN THE LIMITS OF THE CITY OF DENVER.

WHEREAS, By his deed bearing date the eleventh day of January, 1868, recorded in book 15, page 570, in the records of Arapahoe county, State of Colorado, Henry C. Brown did convey to the State of Colorado the following described property, to wit: Ten acres of land in the northwest quarter of the northeast quarter of section three, township four, range 68 west; and,

Preamble.

WHEREAS, A certain suit or action at law between the State of Colorado and the said Henry C. Brown involving the title to said above described land is now pending in the supreme court of the State of Colorado, which suit will not be determined prior to the adjournment of the present session of the General Assembly; and,

WHEREAS, it is important that the fencing, grading, beautifying and adornment of said land, (if the title should be found in the State of Colorado), be not delayed until the next session of the General Assembly; *Therefore*,

Be it enacted by the General Assembly of the State of Colorado:

Appropriations.

SECTION 1. That the sum of five thousand dollars be, and the same is hereby appropriated out of any monies in the state treasury not otherwise appropriated, for the following purposes:

For grading the land mentioned in the foregoing preamble, to the grade established by the city of Denver; for fencing said land with a substantial four-board fence, with cedar posts, and painting said fence; for setting out a sufficient number of maple and elm trees around and in said land; for ploughing, and sowing said land in grass; for use of water on said land for two years, provide and laying water pipes, hose, etc., for use on said land; for erecting on said grounds a temporary two-room frame house for use of overseer of said land; for salary of overseer of said land for two years, or until the 1st of January, 1882; [1883] for purchase of tools, repairs and other incidental expenses upon said land.

Improvements, when to be made.

SEC. 2. Upon the decision of the supreme court in said above mentioned action, determining the title of said land to be in the State of Colorado, and upon the written certificate of the Attorney-General of the State of Colorado that the said title is so vested in the said State of Colorado, and is unimpeachable, then the Secretary of State is hereby

required to cause said improvements to be made on said land as soon as practicable, and upon the presentation of proper vouchers signed by the Secretary of State and approved by the Governor, the auditor is hereby authorized to draw his warrant upon the treasurer for the payment of the whole or any part of said sum.

SEC. 3. *Provided, however,* should said decision not determine said title to be in the State of Colorado, and should the opinion of the Attorney-General be that the said title is not so vested, then the sum of money hereby appropriated shall revert to the credit of the general revenue fund of the state. Proviso.

SEC. 4. Whereas, it is the opinion of the General Assembly that an emergency exists; therefore, this act shall take effect from and after its passage. Emergency.

Approved February 11, 1881.

AN ACT

TO AMEND "AN ACT TO REPEAL ALL EXISTING LAWS CONCERNING CHATTEL MORTGAGES AND TO ENACT OTHER PROVISIONS IN LIEU THEREOF."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section two of an act entitled "an act to repeal all existing laws concerning chattel mortgages and to enact other provisions in lieu thereof," is hereby repealed, and the following shall stand in lieu thereof as section two: Any such mortgagor shall acknowledge such mortgage before some officer authorized to take the acknowledgment of deeds to real estate in this state. Said officer shall certify the same as follows: This mortgage was

acknowledged before me by A. B. [here insert the name of the mortgagor], this——day of——-, A. D. 18—, and such officer shall be entitled to the same fee as for the acknowledgment of any such deed.

Approved February 11, 1881.

AN ACT

TO AMEND THE CHARTER OF THE CITY OF CENTRAL.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That sections four (4), five (5), and six (6) of an act entitled "An act to amend the charter of the city of Central," approved February 11, 1876, be and the same are hereby repealed, and the following [shall] stand in lieu thereof: Sec. 4. There shall be a city treasurer of said city and also a collector of city taxes on property within the city; said city treasurer and city collector may or may not be the same person, as the city council shall determine. Sec. 5. There shall be a street commissioner of said city and a city marshal of said city, and the said street commissioner and city marshal may or may not be the same person, as the city council shall determine. Sec. 6. The city treasurer, collector of city taxes, street commissioner, city marshal and police judge, shall be severally appointed by the city council at the first regular meeting thereof, after each annual election, or as soon thereafter as practicable, and the persons so appointed shall, respectively, hold such offices during the pleasure of the council, and shall be required to give bonds, and in such sums, for the faithful discharge of their duties, as may be fixed by the city council, and to be approved by the city council, and

City treasurer and collector.

Street commissioner and city marshal.

How and when appointed.

Term of office; bonds.

such officers, or any of them, may be removed at any time and a successor appointed by the council.

SEC. 2. The annual election shall be held in said city of Central on the first Tuesday in April in each year. Annual election.

SEC. 3. Whereas, the election for city officers takes place within the ninety days mentioned in section nineteen, of article five, of the constitution, and it appearing that it is desirable that this act should take effect at once, it is the opinion of the General Assembly that such an emergency exists, as is contemplated in said section of the constitution; therefore, this act shall take effect and be in force from and after its passage. Emergency.

Approved February 1, 1881.

AN ACT

TO AMEND THE CHARTER OF THE CITY OF BLACK HAWK.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That hereafter, on the sale of town lots and real estate in the city of Black Hawk, for taxes levied thereon, under the provisions of the charter and ordinances of said city, it shall be the duty of the city marshal to bid off, for the city, all such town lots and real estate remaining unsold at any public sales of such lots and real estate, for the delinquent taxes thereon, with interest and costs; *provided*, that before bidding off said lots, or real estate, he shall have first offered such lots and real estate at public sale, as aforesaid, on two successive days, and no bid has been made for the amount of such delinquent taxes. Sale of lots for taxes. City Marshal shall bid off. Proviso.

SEC. 2. When the city marshal has so bid off any town lots, or real estate for the city, as aforesaid, he shall issue Certificate of purchase.

to the city a certificate of purchase as provided in section seventy-eight, of the General Laws, entitled "Revenue," and that any person may, at any time within two years from the date of such certificate, deposit with the treasurer of such city the total amount of tax expressed in such certificate, together with charges and accrued interest thereon, at the rate provided as on delinquent taxes due such city, whereupon the clerk of such city shall assign such certificate, with the seal thereto attached, to such person, and therefor such person shall be entitled to all the rights and privileges as though he were an original purchaser at the tax sale.

Redemption.

Limitation of time for redemption.

SEC. 3. If such certificate shall not be assigned, within two years as aforesaid, the title to town lots and real estate described therein, shall vest absolutely in the city, and may be disposed of in such manner as may be provided by the ordinances of such city.

Approved February 16, 1881.

AN ACT

AN ACT ENTITLED AN ACT TO ENABLE THE SEVERAL CITIES AND TOWNS OF THE STATE TO FUND THEIR FLOATING INDEBTEDNESS.

Be it enacted by the General Assembly of the State of Colorado:

City or town having debt exceeding $10,000 may fund same.

SECTION 1. It shall be the duty of the city council or board of trustees of any city or town having a floating indebtedness exceeding (10) ten thousand dollars, upon a petition of fifty of the electors of said city or town who shall have paid taxes upon property assessed to them in said city or town in the preceding year, to publish for the period of thirty days in a newspaper published within said

city or town, a notice requesting the holders of the warrants of such city or town to submit, in writing, to the city council or board of trustees, within thirty days from the date of the first publication of such notice, a statement of the amount of warrants of such city or town, with accrued interest thereon, which they will exchange at par for the bonds of such city or town, to be issued under the provisions of this act, taking such bonds at par. It shall be the duty of such city council or board of trustees, at the next general election occurring after the expiration of thirty days from the date of the first publication of the notice aforesaid, upon the petition of fifty of the electors of such city or town, who shall have paid taxes upon property assessed to them in said city or town the preceding year, to submit to the vote of qualified electors of such city or town who shall have paid taxes upon property assessed to them in said city or town, in the preceding year, the question whether the city council or board of trustees shall issue bonds of such city or town, under the provisions of this act, in exchange at par for warrants of such city or town at par, issued prior to the date of the first publication of the aforesaid notice, or they may submit such question at a special election, which they are hereby empowered to call for that purpose, at any time after the expiration of thirty days from the date of the first publication of the notice aforesaid mentioned on the petition of fifty qualified electors as aforesaid, and they shall publish, for the period of at least thirty days, immediately preceding such general or special election, in some newspapers published in such city or town, a notice that such question will be submitted to the duly qualified electors as aforesaid at such election. The treasurer of the county in which such city or town is located, shall make out and cause to be delivered to the judges of election in each election precinct, prior to said election, a certified list of the tax payers of such city or town, who shall have paid taxes upon property assessed to them, in the preceding year, and no person shall vote upon

Holders of warrants to submit statement of terms upon which they will exchange same for bonds.

Notice of submission of question to vote of people.

Publication of notice.

County treasurer to furnish judges with lists of tax payers.

the question of funding the city or town indebtedness unless his name shall appear upon such certified list, nor unless he shall have paid all city or town taxes assessed against him in such city or town the preceding year. If a majority of the votes lawfully cast upon the question of such funding of the city or town indebtedness shall be for funding of such indebtedness, the city council or board of trustees may issue to any person or corporations holding any city or town warrant or warrants, issued prior to the date of the first publication of the aforementioned notice, coupon bonds of such city or town in exchange therefor at par. No bond shall be issued of less denomination than one hundred dollars, and if issued for a greater amount then for some multiple of that sum, and the rate of interest shall not exceed eight per cent. per annum. The interest to be paid semi-annually, at the office of the city or town treasurer, or in the city of New York, at the option of the holders thereof. Such bonds to be payable at the pleasure of the city or town, after five years from the date of their issuance, but absolutely due and payable fifteen years after date of issue. The whole amount of bonds issued under this act shall not exceed the sum of the city or town indebtedness at the date of the first publication of the aforementioned notice, and the amount shall be determined by the city council or board of trustees and a certificate made of the same, and made a part of the records of the city or town; and any bond issued in excess of said sum shall be null and void, and all bonds issued under the provisions of this act shall be registered in the office of the State Auditor, to whom a fee of ten cents shall be paid for recording each bond.

Vote required in order to fund.

Size of bonds.

Interest; rate, when and where payable.

Bonds payable at pleasure of county after five years, and absolutely due after fifteen years.

Bonds to be registered.

How signed, sealed, numbered and registered.

SEC. 2. All bonds which may be issued under the provisions of this act shall be signed by the mayor, and countersigned by the city or town treasurer, and attested by the city clerk or recorder, and bear the seal of the city or town on each bond, and shall be numbered and registered in a book kept for that purpose by the city or town treasurer.

SEC. 3. The city council or board of trustees shall be authorized to prescribe the form of such bonds, and the coupons thereto, and to provide for the half-yearly interest accruing on such bonds actually issued and delivered; they shall cause to be levied, annually, a sufficient tax to fully discharge such interest; and for the ultimate redemption of such bonds they shall cause to be levied annually, after four years from the date of such issuance, such tax upon all the taxable property in their city or town as shall create a yearly fund equal to ten (10) per cent. of the whole amount of such bonds issued, which fund shall be called the redemption fund; and all taxes for interest on and for the redemption of such bonds shall be paid in cash only, and shall be kept by the city or town treasurer as a special fund, to be used in payment of interest on and for the redemption of such bonds only, and such taxes shall be levied and collected as other taxes.

Authority of city council or board of trustees in relation to bonds.

Taxes for interest, etc., to be paid in cash.

SEC. 4. It shall be the duty of the city or town treasurer, when there are sufficient funds in his hands to the credit of the redemption fund, to pay in full the principal and interest of any such bonds, immediately to call in and pay as many of such bonds, and interests [interest] accrued thereon, as the funds on hand will liquidate, as hereinbefore provided. Such bonds shall be paid in the order of their number, and when any bonds or coupons issued under this act are taken up, it shall be the duty of the said treasurer to certify his action to the city council or board of trustees, who shall cancel the same, so that they can be plainly identified, and cause a record to be made of the same; and when it is desired to redeem any such bonds, the city or town treasurer shall cause to be published, for thirty days, in some newspaper at or nearest such city or town, and in a newspaper published in such city, a notice that certain city or town bonds, by numbers and amounts, will be paid upon presentation, and at the expiration of such thirty days, such bonds shall cease to to bear interest.

When and how bonds to be paid.

Vote for and against funding, how cast and canvassed.

SEC. 5. All persons voting on the question as hereinbefore provided, shall vote by ballot, and [all ballots] shall be deposited in a box to be used for that purpose only, and on which ballot shall be printed the words "For funding city [or town] debt," "Against funding city [or town] debt," and if, upon canvassing the vote, (which shall be canvassed in the same manner as the vote for city or town officers) it shall appear that a majority of all the votes cast upon the question so submitted are for funding the county [city or town] debt, then the city council or board of trustees shall be authorized to carry out the provisions of this act; and the canvassing board shall certify the vote, and it shall be made part of the city or town records. The judges of election shall make and certify to the city or town clerk, or recorder, a separate list of the names of the electors voting upon the question of the funding of the city or town indebtedness, in the order in which the ballot of the electors so voting is received, and each ballot shall be numbered in the order in which it is received, and the number recorded on the said list of the voters, opposite the names [name] of the voter who presents the ballot.

Execution of provisions herein.

SEC. 6. As soon as possible after such election, if the bonds shall be voted, the officers herein mentioned and authorized, shall proceed to execute the provisions of this act.

Repeal.

SEC. 7. All acts or parts of acts in conflict herewith, are hereby repealed.

Emergency.

SEC. 8. Inasmuch as some cities and towns now have a large floating indebtedness, and would be greatly benefitted by the immediate passage of this act, it is the opinion of this General Assembly that an emergency exists; therefore, this act shall take effect and be in force from and after its passage.

Approved February 21, 1881.

AN ACT

AN ACT TO AMEND SECTION TWENTY OF CHAPTER ONE HUNDRED OF GENERAL LAWS OF THE STATE OF COLORADO, ENTITLED TOWNS AND CITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section twenty of said chapter one hundred of the General Laws of the State of Colorado be amended so as to read as follows: Sec. 20. Any and all justices of the peace and police magistrates shall have jurisdiction in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, or the city council or board of trustees of any city or town may designate one justice of the peace, who shall have such jurisdiction exclusively.

Jurisdiction of justices and police magistrates.

Approved February 4, 1881.

AN ACT

TO AMEND AN ACT PROVIDING A SYSTEM OF PROCEDURE IN CIVIL COURTS OF JUSTICE OF THE STATE OF COLORADO, APPROVED MARCH 17, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section six, and section seven, of said act be repealed, and the following shall stand in lieu thereof: A married woman may sue and be sued in all matters the same as if she were sole.

Actions by and against married women.

SEC. 2. Section twenty-eight (28) of said act is hereby repealed, and the following shall stand in lieu

Change of venue.

thereof as section twenty-eight (28): If the court to which, or the judge to whom, such application is addressed shall be of opinion that the cause alleged in the petition as a ground for changing the venue exist, the venue shall be changed; but if the court or judge shall be of opinion that such cause does not exist, the application shall be denied, and in that case the petitioner may except to the ruling of the court, and assign error therein in the supreme court; and such petition may be supported by the affidavit of persons who are not parties to the cause, if the petitioner shall desire to file such affidavits, and there shall be but one change of venue in any action.

Affidavit to petition.

Summons; notice to be inserted in.

SEC. 3. Section thirty-three (33) of this [said] act is hereby repealed, and the following shall stand in lieu thereof as section thirty-three; There shall also be inserted in the summons a notice, in substance as follows:

First. In an action arising on contract, for recovery of money or damages only, that the plaintiff will take judgment for a sum specified therein if the defendant fail to answer the complaint.

Second. In other actions, that if the defendant fail to answer the complaint, the plaintiff will apply to the court for the relief demanded therein.

Amended or additional undertakings.

SEC. 4. Section eighty-six (86) of said act be, and the same is hereby amended by adding thereto the following: "The court shall allow upon such terms and within such time as may be just, the giving of amended or additional undertakings in place of defective or insufficient ones given under the provisions of this chapter."

Repeal.

SEC. 5. Section ninety-nine (99) of this [said] act be, and the same is hereby repealed.

Judgment upon failure to answer.

SEC. 6. Section one hundred and fifty of said act is hereby repealed, and the following shall stand in lieu thereof as section one hundred and fifty: Judgment may be had if the defendant fail to answer the complaint, as follows:

First. In an action arising upon contract for the recovery of money or damages only, if no answer, demurrer or motion has been filed with the clerk of the court within the time specified in the summons, or such future time as may have been granted, the clerk, upon the application of the plaintiff, shall enter the default of the defendant, and immediately thereafter enter judgment for the amount specified in the summons, including the costs, against the defendant, or against one or more of several defendants in the cases provided for in the first sub-division of section thirty-three, chapter three, of this act.

Second. In other actions, if no answer, demurrer or motion has been filed with the clerk within the time specified in the summons, or such further time as may have been granted, the clerk shall enter the default of the defendant, and thereafter the plaintiff may apply at the first or any subsequent term of the court for the relief demanded in the complaint.

Taking of account or proof.

If the taking of an account, or the proof of any fact, be necessary to enable the court to assess the damages or give judgment, or to carry the judgment into effect, the court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose, and where the action is for the recovery of damages in whole or in part, the court may order the damages to be assessed by a jury, or they may be assessed by the court, or if to determine the amount of damages, the examination of a long account be necessary, by a reference, as above provided.

Court may appoint a referee

Third. In actions where the service of the summons was by publication, the plaintiff upon the expiration of the time designated in the order of publication, may, upon proof of the publication, and that no answer, demurrer or motion has been filed, apply for judgment, and the court shall thereupon require proof to be made of the demand mentioned in the complaint, and if the defendant be not a resident of the state, shall require the plaintiff or his agent to be examined, on oath, respecting any payments that

have been made to the plaintiff, or to any one for his use, on account of such demand, and may render judgment for the amount which he is entitled to recover. If the answer in any case denies or controverts only a part of the cause or causes of action alleged in the complaint, the plaintiff may take judgment by default for the undisputed portion, leaving the action to proceed as to the part controverted by the answer.

SEC. 7. Section four hundred (400) of said act is hereby repealed, and the following shall stand in lieu thereof as section four hundred (400):

Computation of time in this act.

The time within which an act is to be done as provided in this act, shall be computed by excluding the first day and including the last; if the last day be Sunday or a legal holiday it shall be excluded.

Time may be extended.

When the act to be done relates to the pleadings in the action or the undertakings to be filed, or the justification of sureties, or the service of notices other than of appeal, or the preparation of statement, or of bills of exceptions, or of amendments thereto, the time allowed by this act may be extended upon good cause shown by the court in which the action is pending, or the judge thereof, or in the absence of such judge from the county in which the action is pending, by the county judge; but such extension shall not exceed thirty days beyond the time prescribed by this act without the consent of the adverse party.

Motions, where to be made.

SEC. 8. Section three hundred and eighty-nine of said act is hereby repealed, and the following shall stand in lieu thereof as section three hundred and eighty-nine: Motions shall be made in the county in which the section [action] is brought, or if at chambers, in any county in the same district. Written notice of motions shall be required in all cases, except those made during the progress of a trial.

Notice of motions, at what time to be given.

SEC. 9. Section three hundred and ninety (390) of said act is hereby repealed, and the following shall stand

in lieu thereof as section three hundred and ninety: Where the attorneys of both parties or the parties themselves reside in the same county, written notice of a motion shall be given twenty-four hours before the time appointed for the hearing, otherwise three days' actual notice will be given.

Approved March 1, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT PROVIDING A SYSTEM OF PROCEDURE IN CIVIL COURTS OF JUSTICE OF THE STATE OF COLORADO."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section two of an act entitled "An act to amend an act providing a system of procedure in civil courts of justice of the State of Colorado, approved February 24, 1879, be and the same is hereby amended so as to read as follows: Section eighty-three [sixty-three] of said act is hereby repealed, and the following shall stand in lieu thereof as section sixty-three:

Every pleading must be subscribed by the party or his attorney; and when the complaint is verified, or when the state, or any officer of the state, in his official capacity, is plaintiff, the answer must be verified, unless an admission of the truth of the complaint might subject the party to a criminal prosecution, or unless an officer of the state in his official capacity, is defendant. In all cases of a verification of a pleading, the affidavit of the party must state that the same is true of his own knowledge, except as to the matters which are therein stated on his information and belief, and as to those matters that he believes it to be

Verification of pleading.

true; and when a pleading is verified, it must be by the affidavit of a party, unless the parties are absent from the county where the attorney resides, or from some cause unable to verify it, or the facts are within the knowledge of his attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person, except one of the parties, he must set forth in the affidavit the reasons why it is not made by one of the parties. When a corporation is a party, the verification may be made by any officer, stockholder, agent, superintendent, or attorney thereof, and shall state that the facts stated in the pleadings are true, to the best knowledge and belief of such affiant. When an action is brought upon a written instrument, and the complaint contains a copy of such instrument, or a copy is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same be verified.

Approved February 11, 1881.

AN ACT

TO REPEAL SECTION FOUR HUNDRED AND TWENTY-NINE OF AN ACT ENTITLED "AN ACT PROVIDING A SYSTEM OF PROCEDURE IN CIVIL ACTIONS IN THE COURTS OF JUSTICE OF THE STATE OF COLORADO," APPROVED MARCH 17, 1877, AND TO ENACT OTHER PROVISIONS IN LIEU THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section four hundred and twenty-nine of an act entitled "an act providing a system of procedure in civil actions in the courts of justice of the State of Colorado," approved March 17, 1877, be, and the

same is hereby repealed, and that the following be adopted in lieu thereof as section four hundred and twenty-nine:

Trial of action may be private, when.

Sec. 429. On the trial of any action, upon the suggestion to the court by any counsel engaged therein, that the evidence to be adduced in such action will be of such character that unnecessary publicity would operate injuriously on the public morals, it shall be the duty of the court to exclude from attendance on said trial, all persons not officers of the court or connected with such case in any manner.

Approved February 4, 1881.

AN ACT

CONCERNING ARBITRATIONS AND AWARDS, AND TO REPEAL A CERTAIN STATUTE OF THE STATE OF COLORADO, INCONSISTENT WITH THE PROVISIONS HEREOF.

Be it enacted by the General Assembly of the State of Colorado:

Controversies which may be subject of civil action, may be arbitrated.

SECTION 1. That all controversies which may be the subject of a civil action, may be submitted to the decision of one or more arbitrators, in the manner and with the effect indicated in this act.

Parties before submission shall subscribe articles of agreement; what agreement to contain.

SEC. 2. In order to make future arbitrations obligatory and binding upon the parties, they shall, before they make their submission, make and subscribe a written article of agreement, in and by which they shall agree to submit all matters, or some particular matter of difference, to the arbitrators named, and to abide their award; and also that the award, when made, may be filed by the successful party, with the clerk of the district court, as a basis of a judgment, and that an execution may be issued for its collection.

Arbitrators shall be sworn.

SEC. 3. Arbitrators shall not have power hereafter to act until they take an oath, before some person authorized by law to administer oaths, to the effect that they will well and truly try, and impartially and justly decide the matter in controversy, according to the best of their ability.

Powers of arbitrators.

SEC. 4. Arbitrators duly sworn and entered upon their duties, shall have power to issue subpœnas for witnesses, and to enforce the same by attachment in like manner as district courts; to administer oaths to witnesses and others in the case, and after a trial and hearing, to decide the matter, in writing, according to the very right of the cause.

Judgment and execution may be entered by clerk on the filing of award.

SEC. 5. The party in whose favor any award shall be made, may file the same with the clerk of the district court of the county wherein the matter was arbitrated, who shall be authorized to enter a judgment thereon, and if such award requires the payment of any sum of money, it shall be lawful for the clerk to issue an execution out of, and under the seal of the court, for the collection of the judgment.

Compensation of arbitrators.

SEC. 6. Arbitrators shall be entitled to receive from the parties in whose favor the award is made, three dollars per day each for their services, and the amount of their compensation shall be included in their award, and in the judgment entered thereon by the clerk. The arbitrators shall not be required to deliver their award to such successful parties until their said compensation shall have been paid.

Decision of arbitrators not subject to review.

SEC. 7. Whenever it shall appear upon the trial of an action at law, or in equity, or in any legal proceeding, in or before any court of competent jurisdiction, that the subject matter of such action or proceeding, or of any part thereof, or of the defense thereto, or of any part thereof, has been submitted to and decided by arbitrators according to the terms of this act, such matter so arbitrated shall be held to have been adjudicated and settled, and not open, either directly or indirectly, for review.

SEC. 8. That chapter twenty-nine of an act entitled "An act providing a system of procedure in civil actions in the courts of justice in the State of Colorado," approved March 17, A. D. 1877, be and the same is hereby repealed. Repeal.

Approved February 4, 1881.

AN ACT

TO AMEND SECTION TWO HUNDRED AND FORTY OF AN ACT PROVIDING A SYSTEM OF PROCEDURE IN CIVIL ACTIONS IN THE COURTS OF JUSTICE OF THE STATE OF COLORADO, APPROVED MARCH 17, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section two hundred and forty of said act is hereby repealed and the following shall stand in lieu thereof: When damages are claimed for withholding the property recovered or for ouster upon which permanent improvements have been made by a defendant, or those under whom he claims, holding under color of title adversely to the claims of the plaintiff, in good faith, the value of such improvements shall be allowed as a set-off against such damages, except improvements made upon mining property, and if damages are or are not claimed for withholding the property recovered, or for ouster, the defendant may counter claim the value of improvements made by him, or those under whom he claims, if made under color of title and in good faith.

Approved February 23, 1881.

AN ACT

TO AMEND CHAPTER XX OF THE CODE, ENTITLED "PROCEEDINGS SUPPLEMENTARY TO EXECUTION."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter twenty (XX) of the Code entitled "proceedings supplementary to executions" is hereby amended by striking out section two hundred and twenty-eight (228) of said act, and by inserting in lieu thereof the following as section two hundred and twenty-eight: Sec. 228. If any person, party or witness disobey an order of the referee, properly made, in the proceeding before him under this chapter, he may be punished by the court or judge ordering the reference for a contempt. Nothing in this act shall be so construed as to prevent the bringing of an action in the nature of a creditor's bill.

Approved February 11, 1881.

AN ACT

TO REPEAL CHAPTER FIFTEEN (XV) OF THE GENERAL LAWS OF THE STATE OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That chapter fifteen (XV) of the General Laws of the State of Colorado be and the same is hereby repealed.

SEC. 2. In the opinion of the General Assembly, an emergency exists; therefore this act shall take effect from and after its passage.

[*The foregoing act was filed in the office of the Secretary of State, by the Governor, March 15, 1881, without his signature, and became a law under and by virtue of the provisions of section eleven, of article four, of the Constitution of the State of Colorado.*—EDITOR.]

AN ACT

TO SUBMIT TO THE QUALIFIED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION THIRTY, OF ARTICLE FIVE, OF THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING THE SALARIES OF CERTAIN PUBLIC OFFICERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there shall be submitted to the qualified electors of the State of Colorado, at the next general election for members of the General Assembly, for their approval or rejection, the following proposed amendment to the Constitution of the State of Colorado, which, when ratified by a majority of those voting thereon shall be valid as a part of the Constitution, that is to say: Section thirty, of article five, of the Constitution of the State of Colorado, shall be amended so as to read as follows, to wit: Sec. 30. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment; *provided*, that on and after the first day of March, A. D. 1881, the salaries of the following designated public officers, including those thereof who may then be incumbents of such offices, shall be as herein provided, viz:

Submission of amendment to vote.

Salaries.

The Governor shall receive an annual salary of five

thousand dollars, and the further sum of fifteen hundred dollars for the payment of a private secretary.

The judges of the supreme courts shall each receive an annual salary of five thousand dollars.

The judges of the district courts shall each receive an annual salary of four thousand dollars.

Form of ballot.

SEC. 2. Each elector voting at said election shall deposit in the ballot box a ticket whereon shall be written or printed "for the amendment," or the words "against the amendment."

Votes, how canvassed.

SEC. 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by the laws of the state for the canvass of votes for Representative in Congress.

[Filed in the office of the Secretary of State, March 14, 1881.]

AN ACT

TO AMEND CHAPTER XVIII OF THE GENERAL LAWS, CONCERNING CONVEYANCES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section twenty-two of chapter eighteen of the General Laws, concerning conveyances, is hereby repealed, and the following shall stand in lieu thereof as section twenty-two: The board of county commissioners of any county, or the common council of any city, or the board of trustees of any town, may, by order, to be entered of record among the proceedings of any such board or council, appoint a commissioner to sell and convey any real estate belonging to such county, city or town, and to

affix to any conveyance thereof the seal of such county, city or town; and such conveyance, executed in accordance with such order, shall have the effect to transfer to the grantee named all the estate of such county, city or town in the real estate so conveyed.

Approved February 4, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO AMEND CHAPTER NINETEEN (19) OF THE GENERAL LAWS OF THE STATE OF COLORADO."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section three (3) of an act entitled "An act to amend chapter nineteen (19) of the General Laws of the State of Colorado, entitled 'corporations,'" be amended so as to read as follows: Sec. 3. That section forty-two (42) of said chapter nineteen (19) be, and the same is hereby amended so as to read as follows Section 42. Upon the due and lawful incorporation of any congregation, parish, church or society, such corporation shall be entitled to all the real and personal property held by any person or trustees in trust for the use of the members thereof, and shall be immediately upon such incorpotion, entitled to a deed or deeds of conveyance to be executed by the person holding such property in trust, so as to vest the title thereto in such corporation; *provided*, that such deed of conveyance shall set forth the object and purposes of the trust to be carried out according to the purpose and intent of its creation, which deed shall be recorded after the manner of conveyances in general, so that the title and trust declared may duly appear of record;

Disposition of real and personal property held in trust.

and any self-supporting congregation, parish, church, or society, may vest its real estate and personal property in such general incorporations [incorporation] as is provided for in section forty-four (44) of chapter nineteen (19) of the General Laws; *provided*, nevertheless, that if the authorities of any church, sect or religious body shall have caused an incorporation to be formed for general missions and other purposes, as hereinafter provided, and it be in accordance with the usages and customs of such church, sect a [or] religious body to vest the property of missions [mission] station [stations] in such corporations [corporation], then, and in that case, all such property as may have been held by any person or trustees for the use of such mission stations shall [be vested in said general corporation; and whenever any mission station shall,] from change of population or other cause be suspended or abandoned, said general incorporation may, in their discretion, sell or otherwise dispose of all such mission property, the proceeds of such sale or disposal to be used for the benefit of said church, sect or religious body in the State of Colorado.

Approved February 9, 1881.

AN ACT

[TO AMEND SECTION FORTY-ONE OF CHAPTER XIX OF THE GENERAL LAWS OF THE STATE OF COLORADO,] ENTITLED AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section forty-one of chapter nineteen of the General Laws of the State of Colorado, entitled "Corporations," approved March 14, 1877, be and

is the same hereby amended so as to read as follows:

By-laws of religious, benevolent or educational corporations, how adopted.

Sec. 41. The directors, trustees, wardens or vestrymen of any such corporation shall adopt necessary by-laws to provide for the election of directors, trustees, wardens or vestrymen and other officers, and for the proper government in all respects of such congregation, church or society, unless such corporation shall in its article of incorporation, reserve to itself the right to make and adopt such prudential by-laws as it may deem necessary to provide for the election of directors, trustees, wardens or vestrymen and other officers, and for the proper government in all respects of such congregation, church or society.

Approved February 18, 1881.

AN ACT

TO PERMIT DOMESTIC CORPORATIONS DOING BUSINESS IN OTHER STATES TO ACCEPT THE LAWS OF OTHER STATES AND TERRITORIES.

Be it enacted by the General Assembly of the State of Colorado:

Domestic corporations doing business in other states may accept laws of said states.

SECTION 1. It shall and may be lawful for any corporation created or existing under the laws of this state for the purpose, among others, of exercising its franchises or carrying on part of its business beyond the limits of this state, and in another state or territory of the United States or elsewhere, to accept any law of such other state or territory of the United States, or foreign state and government, and to exercise within the territory of such other state or territory, or foreign state and government, all such authorities, powers, privileges, rights and franchises as may be, by such laws conferred, subject to such duties, liabilities and restrictions as may by such laws be imposed.

Approved February 9, 1881.

AN ACT

TO AMEND CHAPTER XIX OF THE GENERAL LAWS ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS."

Be it enacted by the General Assembly of the State of Colorado:

Railroad company may lease its line.

SECTION 1. Any railroad company organized or existing under the laws of this state or under the laws of an adjoining state or territory, may lease any part or all of a railroad constructed by another company in or without this state, if the lines of roads of such companies are continuous and connected, and not competing or parallel, upon such terms and conditions as may be agreed upon between the companies, subject always to the existing laws of this state on the subject of corporations; but such lease shall not be deemed to exclude the jurisdiction of this state over the control or regulation of such leased railroad.

Two-thirds vote of stockholders necessary to lease.

SEC. 2. No such lease shall be perfected until a meeting of the stockholders of each of the companies has been called for that purpose, on thirty days' notice to each stockholder, and in such manner as is provided for the annual stockholders' meetings, and the holders of at least two-thirds of the stock of each company, in person or by proxy, at such meeting assent thereto.

Approved February 18, 1881.

AN ACT

TO AMEND CHAPTER XXIV OF THE GENERAL LAWS OF THE STATE OF COLORADO, ENTITLED CRIMINAL CODE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section fifty-nine of chapter twenty-four of the General Laws is hereby repealed, and the following shall stand in lieu thereof as section fifty-nine: Larceny defined; punishment for.

Larceny is the felonious stealing, taking and carrying, leading, riding or driving away the personal goods of another. Larceny shall embrace every theft which deprives another of his money, or other personal property, or those means or muniments by which the right and title to property, real or personal, may be ascertained. Private stealing from the person of another, and from a house in the daytime, shall be deemed larceny. Larceny may also be committed by feloniously taking and carrying away any bond, bill, note, receipt, or any instrument of writing, of value to the owner. Every person convicted of larceny where the article or thing stolen shall exceed the value of twenty dollars, shall be punished by confinement in the penitentiary for a term of not less than one year nor more than ten years.

SEC. 2. Section sixty-seven of said chapter twenty-four is hereby repealed, and the following shall stand in lieu thereof as section sixty-seven:

If any clerk, apprentice or servant, whether bound or hired, or any agent, clerk, or employé, to whom any money, bank bill, note, goods or chattels, shall be intrusted or delivered by any other person for the benefit or use of his or her master or mistress, principal or employer, or come into the hands of such clerk, apprentice, servant, agent or employé, by virtue of his or her employment or confidential relation to his or her master, mistress, principal or employer, Breach of trust deemed and punished as larceny.

shall withdraw himself or herself from his or her master, mistress, principal or employer, or go away with the said money, bank bill, note, goods or chattels, or any part thereof, with the intent to steal the same, or defraud his or her master, mistress, principal or employer thereof, contrary to the trust and confidence in him or her reposed by his or her said master, mistress, principal or employer, shall embezzle the said money, bank bill, note, goods or chattels, or any part thereof, or otherwise convert the same to his or her own use with like purpose to steal the same; every such person so offending shall be deemed guilty of larceny and be punished accordingly.

SEC. 3. Section two hundred and sixty-eight of said chapter is hereby repealed, and the following shall stand in lieu thereof as section two hundred and sixty-eight:

Construction of last paragraph of Sec. 20 of criminal code.

The death penalty for the crime of murder shall not be ordered to be inflicted by the courts of this state in any case, unless the jury trying the case, shall, in their verdict of guilty, also indicate that the killing was deliberate or premeditated, or was done in the perpetration or attempt to perpetrate some felony; or unless the jury in case where the defendant pleads guilty, and the jury to whom the question of deliberation or premeditation, or that the killing was done in the perpetration or attempt to perpetrate some felony, shall be submitted as hereinafter provided, shall, in their verdict upon that question, indicate that the killing was deliberate or premeditated, or was done in the perpetration or attempt to perpetrate some felony.

In case where the party indicted for the crime of murder shall plead guilty thereto, and persist therein, the court, thereupon, shall impanel a jury as in other cases, to whom shall be submitted, and who shall hear and determine the question, and vindicate [indicate] in their verdict, whether or not the killing was deliberate or premeditated, or was done in the perpetration or attempt to perpetrate some felony; and in such case that question and none other shall be submitted to the jury.

SEC. 4. Section two hundred and sixty-nine of said chapter is hereby repealed, and the following shall stand in lieu thereof as section two hundred and sixty-nine:

Sentence where confession or verdict does not indicate premeditation.

Any person hereafter found guilty of the crime of murder by his plea of guilty, in case such plea is received, or by the verdict of a jury where a trial is had, without any confession in such plea, or indication in such verdict, whether the killing was deliberate or premeditated, or was done in the perpetration or attempt to perpetrate some felony, shall be sentenced to confinement in the penitentiary for and during such persons natural life; which confinement may be with or without hard labor, in the discretion of the court.

SEC. 5. Section seventy-one of said chapter is hereby repealed, and the following shall stand in lieu thereof as section seventy-one:

Penalty for malicious killing or injury of stock, or malicious interference with same.

If any person shall wilfully and maliciously kill, cripple or injure any horse, mare or gelding, or any bull, cow, steer, heifer, or calf, or any mule, or sheep, by poisoning or other means; or shall maliciously run down or drive from its usual range any animal above mentioned; or shall maliciously scatter or drive from their usual range any flock or herd of sheep, or any herd or band of neat cattle, horses or mules, or any of the animals above mentioned; or shall maliciously destroy or injure any camp, shanty, cabin or house occupied by any herder or shepherd, or his assistants; or maliciously injure any horse or other animals in the possession of such herder or shepherd; or maliciously interfere with any such herder, shepherd or his assistants, with intent and for the purpose of hindering or preventing such herder, shepherd or his assistants from herding or keeping any flock of sheep or herd of cattle or other animals in the vicinity where such acts or any of them may be committed, or in, or on any range or portion of this state not occupied by actual settlers; or with intent to break up, hinder, prevent, disturb or molest the business of herding or keeping any such flock or kind of flock, or

herd or kind of herd, or raising, or producing, or propagating the same in any portion of this state; every such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not exceeding four times the amount of the injury proven, or by imprisonment in the penitentiary not exceeding two years, or both as the judge sitting at the trial may determine; and the said judge shall fix the amount of fine and the duration of such imprisonment in all cases.

SEC. 6. Section forty-nine of said chapter is hereby repealed, and the following shall stand in lieu thereof as section forty-nine:

Assault and battery.

Assault and battery is the unlawful beating of another. Every person convicted of assault, or assault and battery, shall be punished by imprisonment in the county jail for a term not exceeding six months or fined not exceeding five hundred dollars.

SEC. 7. Section one hundred and ninety-three of said chapter is hereby repealed, and the following shall stand in lieu thereof as section one hundred and ninety-three:

What courts may be joined in indictment.

Counts in larceny, and for embezzlement, and for receiving stolen goods, may be joined in the same indictment. Counts, for offenses mentioned in section forty-eight of this chapter may be joined in the same indictment; *provided*, that on the trial of the accused the evidence shall be limited to one transaction.

When district or county court to certify questions arising between court and counsel, to supreme court.

SEC. 8. That hereafter, on the trial of any criminal case in the district or county court in any county in this state, or before any criminal court for any county in this state, when any question shall arise between the court and the counsel for the prisoner, either on the admission of any evidence on behalf of the prisoner or of the prosecution, the challenge of any juror or jurors, or the giving or refusal to give any instruction, it shall be the duty of the court before which said trial is in progress, on the demand of the person or his counsel, to certify said question or questions to the supreme court for review, without

taking to said supreme court the entire record in the case; and upon such question or questions being so certified to said supreme court, it shall be the duty of that court to hear and determine such question or questions, as in other cases; *provided*, that all and every such question shall be taken to said supreme court at one and the same time, and not at different times; and, *provided further*, that the taking of such question or questions to the supreme court shall not operate in any case as a *supersedeas*, except as is now, or may be hereafter, provided by law. Duty of supreme court on above certification. Proviso.

Approved March 1, 1881.

AN ACT

TO AMEND [SECTION] ONE HUNDRED AND FIFTY-ONE OF CHAPTER TWENTY-FOUR OF THE GENERAL LAWS, ENTITLED CRIMINAL CODE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section one hundred and fifty-one of said chapter is hereby repealed and the following shall stand in lieu thereof as section one hundred and fifty-one: Any person able to work and support himself in some honest and respectable calling, who shall be found loitering, or strolling about, frequenting public places, or where liquor is sold, begging or leading an idle, immoral or profligate course of life, or not having any visible means of support, shall be deemed a vagrant and may be arrested and brought before any justice of the peace. Such justice of the peace shall examine such person and hear testimony in relation to such person, and if satisfied that such person is a vagrant, may impose a fine of not less than twenty-five nor more than two hundred dollars, or imprison such person in the county jail not less than ten nor more than ninety days, or Vagrancy.

both such fine and imprisonment, and such person may be made to work out such fine and costs by hard labor upon the highways of the county. Such prisoner shall be credited with the sum of two dollars per day for each day of eight hours labor, towards the payment of such fine and costs; and in case such prisoner shall refuse to work as aforesaid, he may be put in irons and kept on bread and water until he shall comply with such requirements.

Approved February 12, 1881.

AN ACT

TO AMEND SECTION ONE HUNDRED AND FIFTY-THREE OF CHAPTER TWENTY-FOUR OF GENERAL LAWS, ENTITLED CRIMINAL CODE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one hundred and fifty-three of said chapter twenty-four be amended so as to read as follows: Sec. 153. If any person or persons shall, within any city, town or village, in this state, whether the same be incorporated or not, carry concealed upon his person any pistol, bowie knife, dagger or other deadly weapon, such person shall, upon conviction thereof, be punished by imprisonment in the county jail for a term of not less than ten nor more than thirty days, and fined not less than fifty nor more than one hundred dollars; *provided*, that this section shall not be construed to apply to sheriffs or other officers of the peace while on duty.

Carrying concealed weapons unlawful.

Penalty.

Approved February 1, 1881.

AN ACT

TO CREATE AND ESTABISH A CRIMINAL COURT IN THE COUNTY OF ARAPAHOE.

Be it enacted by the General Assembly of the State of Colorado:

Creation and jurisdiction of criminal court of Arapahoe county.

SECTION 1. That a court of record, to be called "the criminal court of Arapahoe county," is hereby established in the county of Arapahoe, which shall have concurrent jurisdiction with the district court of Arapahoe county in all criminal cases not capital, and such appellate jurisdiction as hereinafter provided.

Appeals from justices' court to court herein created.

SEC. 2. The county court of Arapahoe county shall not hereafter entertain appellate jurisdiction of any offense tried and determined before a justice of the peace, either under the statutes of this state, or the ordinances of the city of Denver, but appeals shall be taken and allowed in such cases to the court hereby established, in the same manner and on the same conditions as is now provided by law for the removal of such cases by appeal to the county court of said county.

Powers, duties, etc.

SEC. 3. The court shall possess all the powers to perform the duties, and be subject to the restrictions of a court of record, as such, according to the provisions of the laws of this state.

Criminal causes from other county to be tried by this court.

SEC. 4. All criminal causes, not capital, removed from any other county to the county of Arapahoe shall be tried and determined by the court hereby established.

Writs of error prosecuted direct to supreme court.

SEC. 5. Writs of error, in case of final judgment or decision of said court, may be allowed and prosecuted directly to the supreme court, in the manner and with the effect in all respects, as is prescribed by law, in cases of writ of error, from the district court to the supreme court in criminal cases.

Court or judge may stay proceedings and admit defendant to bail, when.

SEC. 6. The court hereby established, and the judge thereof, shall have power to stay proceedings on any judgement rendered in said court in any case of appeal of [or] writ of error, and to admit the defendant to bail in the manner and for the causes prescribed by law for the government of the supreme and district courts and the judges thereof in such cases.

Judge to be conservator of the peace.

SEC. 7. The judge of said criminal court shall be a conservator of the peace within the county, and shall have all the powers of the judge of the district court in criminal cases; may administer oaths, grant writs of *habeas corpus* and hear and determine the same as provided by law.

Clerk; appointment, duties, compensation, liabilities, etc.

SEC. 8. There shall be a clerk of said criminal court to be appointed by the judge, and the provisions of the statutes of this state in relation to the duties, compensation and liabilities of the clerks of the district courts, so far as the same can be made applicable, and are not inconsistent with the provisions of this act, shall apply to and govern the clerk of said criminal court, and be in force in relation to him and his duties and powers; and the provisions of an act entitled "An act to authorize the employment of stenographic reporters in the district courts," being chapter ninety-five of the General Laws, shall apply to the court hereby established.

Employment of stenographic reporters authorized.

Seal.

SEC. 9. Said criminal court shall have a seal to be provided by the board of county commissioners, and said court shall be held in such place as shall be provided by said board of county commissioners, and the expense thereof shall be paid in the same manner as now provided by law for the district court.

How process tested.

SEC. 10. The process of said criminal court shall bear the seal of said court and be tested in the name of the clerk thereof.

Recognizances.

SEC. 11. All recognizances, except in capital cases, taken before any judge or justice of the peace in Arapahoe county, in criminal cases, shall be made returnable to said

criminal court, and it shall be the duty of the officer taking the same to return all papers in such criminal cases to the criminal court.

Forfeiture of recognizance.

SEC. 12. Upon the forfeiture of any recogizance made returnable or returned to said criminal court, the clerk shall immediately certify the same, together with a transcript of all papers and proceedings necessary to an undertaking [understanding] thereof, into the district court of Arapahoe county, and the said district court shall thereafter proceed to a final determination in such matters, in all respects as though said forfeiture had been taken in said district court in the first instance.

District attorney to be prosecuting attorney of this court; compensation.

SEC. 13. The district attorney of the judicial district in which said county is included, shall be the prosecuting attorney of said court, and for his services therein, shall receive the same compensation, to be paid in the same manner as provided by law for similar services in the district court.

Duties, powers, etc., of sheriff.

SEC. 14. The sheriff of Arapahoe county shall perform the same duties, have the same powers, be liable to the same penalties and receive the same compensation in the said court as is [provided] in the district court for similar services in criminal cases.

Jurors; how selected, etc.

SEC. 15. The grand and petit jurors of said criminal court shall be selected as provided by law for the selection of jurors to serve in the district court; and it shall be the duty of the board of county commissioners of Arapahoe county to select and certify to the clerk of said court the names of persons qualified to serve as jurors in the same manner as they are required by law to select and certify the names of persons to serve as jurors in the district court.

Changes of venue.

SEC. 16. Changes of venue may be granted from said criminal court in the manner provided by law for changes of venue from district courts in criminal cases; *provided*, that when a change of venue is applied for on

account of the prejudice of the judge of the criminal court, the venue shall be changed to the district court of Arapahoe county.

Terms.

SEC. 17. Five terms of the criminal court shall be held each year in the city of Denver, commencing on the first Monday of February, April, June, October and December; *provided*, that the first term of said court in the year 1881 shall be held on the first Monday of March, 1881, and thereafter at the terms [times] herein provided.

Failure of district attorney to attend, judge may appoint.

SEC. 18. In case the district attorney shall fail to attend upon said court at any term thereof, or part of any term, his place shall be supplied by some attorney, to be appointed by the judge, who shall, in the meantime perform the services and receive such compensation as is allowed the district attorney by law.

District court to have jurisdiction in change of venue from this court.

SEC. 19. In all cases of change of venue from the criminal court to the district court, upon the transcript of the record being filed in the office of the clerk of the district court, such district court shall be possessed of full jurisdiction of the cases so transferred, and shall proceed to hear and determine the same, in all respects as if the indictment had been originally returned in said district court.

Judge; qualifications, compensation, how appointed, removal.

SEC. 20. The judge of the criminal court shall possess the same qualifications prescribed by law for the judges of the district courts, except as to length of residence, and shall receive the sum of three thousand dollars per annum as compensation to be paid in the same manner as district judges are paid; he shall be appointed by the Governor, by and with the advice and consent of the senate, and shall hold his office for the period of six years, commencing from the date of his commission, and until his successor is appointed and qualified, and he may be removed from office for the same causes and in the same manner as the judge of the district court. The Governor shall have power to fill any vacancy that may occur in said office during the recess of the senate by granting commissions, which shall expire at the end of their next session; *provided*, that in

Governor may fill vacancy.

the first instance, the Governor may fill said office by appointment as in case of a vacancy. The judge of the criminal court shall take and subscribe and file his oath of office to the same effect and in the same manner as is required of district judges before entering upon the duties of his office. Oath.

SEC. 21. The criminal court shall be governed by the practice and proceedings now prescribed by law for the government of the district court of Arapahoe county in criminal cases, so far as the same can be made applicable, and not inconsistent with the provisions of this act. Criminal court, how governed.

SEC. 22. Upon the organization of said criminal court, or upon the appointment and qualification of the judge thereof, the district court of Arapahoe county may make an order transmitting to said criminal court such criminal causes, not capital, as may be pending in said district court, and as to said court may seem prudent, wherein the said defendant or defendants are in confinement awaiting trial; and in criminal causes, not capital, depending in said district court wherein the defendant or defendants are enlarged upon recognizance, the said district court may, upon the appearance of such defendant or defendants, in obedience to the exigencies of his or their recognizance, cause the said defendant or defendants to enter into other and new recognizance, requiring said defendant or defendants to be and appear in the said criminal court upon the first day of the next regular term thereof, and further conditioned as required by law; *provided*, that if the said criminal court shall then be in session, the said recognizance may require the said defendant or defendants to be and appear in the said criminal court on the next or any succeeding day thereafter, and further conditioned according to law; and upon the making of such order, the clerk of the district court shall make forthwith such transcript of the record of proceedings had in said causes as may be necessary to complete the records of such criminal causes, and transmit the same together

What causes may be transferred from district to criminal court upon organization thereof.

District court may direct defendant to enter into new recognizance to appear in criminal court; when, and in what cases.

Clerk of district court to make transcript of proceedings, etc., for criminal court.

with the indictment and all other papers filed in said causes to the said criminal court; and all such causes when so removed, shall be proceeded with to final determination in said criminal court in all respects as they might have been if the same had remained in said district court. The cost [costs] of the clerk for certifying such removal shall be paid by the county at the same rate as other transcript work, and shall not be taxed against any defendant in any event.

Costs of certification of removal, how paid.

County commissioners to furnish clerk with books, furniture, etc.

SEC. 23. It shall be the duty of the board of county commissioners of said Arapahoe county to furnish to the clerk of said criminal court, at the expense of the county, suitable books and stationery for the use of said court, together with appropriate cases and furniture for the safe and convenient keeping of all books, documents and papers belonging to said court.

Emergency.

SEC. 24. Inasmuch as the adminstration of justice in the county requires immediate relief by legislation, therefore it is the opinion of the General Assembly that an emergency exists, and this act shall take effect and be in force from and after its passage.

Approved February 26, 1881.

AN ACT

TO CREATE AND ESTABLISH A CRIMINAL COURT IN THE COUNTY OF LAKE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there is hereby established in the county of Lake a criminal court to be called "The criminal court of Lake county," which shall be a court of record and have a seal, and shall have concurrent jurisdiction

with the district court of Lake county in all criminal cases not capital, and such appellate jurisdiction as is thereinafter [hereinafter] provided for.

Judge; qualifications, compensation, appointment, term.

SEC. 2. The judge of said court shall possess the qualifications prescribed by law for judges of the district court, except as to length of residence, and shall receive as a compensation the sum of three thousand dollars per annum, to be paid at the times and in the manner provided by law for the payment of salaries to district judges; he shall be appointed by the Governor, by and with the advice and consent of the senate, and shall hold his office for the term of two years from the date of his commission, and until his successor is appointed and qualified, and he may be removed in the same manner as the judges of the district court. The Governor shall immediately after this act takes effect, appoint, with the advice and consent of the senate, a person possessing the necessary qualifications as judge of said court, and all vacancies in said office shall be filled in the same manner; *provided*, that all vacancies occurring during the recess of the senate may be filled by appointment by the Governor, but such appointment shall expire at the end of the next session of the senate.

Vacancies.

Powers of judge.

SEC. 3. The judge of said court shall be a conservator of the peace within the county, and shall have all the powers of a judge of the district court in criminal cases, not capital, and in such cases the court hereby established shall have all the powers now, or that may hereafter be conferred by law on the district court.

Rules of government.

SEC. 4. The criminal court shall be governed by the rules of practice now provided, or that may hereafter be provided by law for the government of the district court, so far as the same can be made applicable and not inconsistent with this act.

Process, how attested.

SEC. 5. All process issued out of said court shall bear the seal thereof, and be tested in the name of the clerk of said court.

Writs of error.

SEC. 6. Writs of error may be allowed and prosecuted from the final decisions or judgments of said court to the supreme court, in the manner and with like effect, as is or may be provided by law in cases of writs of error from the district courts to the supreme court in criminal cases.

Clerk; appointment, qualifications, duties, compensation, etc.

SEC. 7. There shall be a clerk of said criminal court, who shall be appointed by and may be removed at the pleasure of the judge of said court. The qualifications, duties, liabilities, and compensation of the clerk shall be the same as are or may be provided by law in case of the district clerks, so far as the same may be applicable; and

Stenographic reporters.

the provisions of an act entitled "An act to authorize the employment of stenographic reporters in the district court," being chapter ninety-five of the General Laws, shall apply to the court hereby established.

Change of venue.

SEC. 8. All criminal cases, not capital, removed on change of venue from any other county to the county of Lake, according to law, shall be tried and determined in said criminal court.

Change of venue.

SEC. 9. Changes of venue may be granted from said court in the manner provided by law for changes from district courts in criminal cases; *provided*, that when a change of venue is applied for on account of the prejudice of the judge of the criminal court, the venue shall be changed to the district court of Lake county.

Prosecuting attorney; who shall be, compensation.

SEC. 10. The district attorney of the judicial district which includes the county of Lake shall be the prosecuting attorney of said court, and shall receive the same compensation to be paid in the same manner as is or may be pro-

On failure to attend, judge may appoint.

vided by law for similar services in the district court. In case the district attorney shall fail to attend at any term or part of any term of said court, the judge of said court shall appoint a suitable person, having the qualifications required by law for district attorneys, except as to length of residence, who shall in the meantime perform the duties and receive such compensation as is provided by law for similar services.

Sheriff; duties, powers, liabilities, compensation.

SEC. 11. The sheriff of Lake county shall perform the same duties, have the same power, be liable to the same penalties and receive the same compensation as is or may be provided by law for similar services in the district court in criminal cases.

Jurors; how selected.

SEC. 12. The grand and petit jurors of said court shall be selected as is, or may be, provided by law for the selection of jurors in the district courts, and it shall be the duty of the county commissioners of Lake county, to select and certify to said court the names of persons qualified to serve as jurors in the same manner as is or may be provided by law for the selection of jurors to serve in the district courts.

Terms.

SEC. 13. Four terms of said court shall be held in each year, commencing on the first Monday of March, June, September and December.

Recognizances.

SEC. 14. All recognizances taken before any judge or justice of the peace in Lake county, in criminal cases, not capital, shall be made returnable to said criminal court, and said court shall have the power to enforce the same, as is or may be provided by law for such proceedings in the district courts.

Transfer of causes from district to criminal court.

SEC. 15. Upon the organization of said court, or upon the appointment and qualification of the judge thereof, the judge of the district court of Lake county may, by its order, entered of record, transmitting to said criminal court such criminal causes, not capital, as may be pending in said district court, and as to said court may seem prudent, wherein the said defendant or defendants are in confinement awaiting trial; and in criminal causes, not capital, depending in said district court, wherein the defendant or defendants are enlarged upon recognizance, the said district court may upon the appearance of such defendant or defendants in obedience to the exigencies of his or their recognizance, cause the said defendants to enter into other and new recognizance, requiring said defendant or defendants to be

Proviso.

and appear in the said criminal court upon the first day of the next regular term thereof, and further condition [conditioned] as required by law; *provided*, that if the said criminal court shall then be in session, the said recognizance may require the said defendant or defendants to be and appear in the said criminal court on the next or any succeeding day thereof, and further conditioned according to law; and thereupon it shall be the duty of the clerk of said district court to immediately transmit and deliver to the clerk of the said criminal court, all of said indictments, informations and recognizances, and also a transcript of the record of proceeding [proceedings] in any case where said district court may have taken any action; and thereupon the said criminal court shall proceed in all such cases in like manner and with like effect, as if said cases had been commenced in said criminal court; and upon the making of such order, the clerk of the district court shall make, forthwith, such transcript of the record of proceedings had in said causes as may be necessary to complete the records in such criminal causes, and transmit the same, together with the indictment and all other papers filed in said causes, to the said criminal court.

Clerk of district court to transmit to clerk criminal court, indictments, transcript, etc.

Fees of clerk for transcript.

The clerk of the district court of Lake county shall receive the fees provided by law for similar services, for making the transcripts provided for in this section, to be paid out of the county treasury of Lake county.

County commissioners to provide books, seal, rooms, furniture, etc.

SEC. 16. It shall be the duty of the county commissioners of Lake county to furnish for said court, at the expense of said county, a seal, and all books and stationery necessary for the use of said court, together with suitable rooms for the use of said court and the juries attending the same, and also appropriate furniture and cases for the convenient use of said court.

Appeals.

SEC. 17. No appeal shall hereafter be allowed from judgments of justices of the peace in Lake County, or from the judgments of any justice of the peace of said county

designated by the city council of the city of Leadville, under the provisions of section twenty of an act in relation to municipal corporations, approved April 4, 1877; but all such appeals shall be allowed and taken to the criminal court hereby established, in like manner and with like effect as is now provided by law for appeals in criminal cases to the county courts.

Emergency.

SEC. 18. In consequence of the large number of criminal cases now pending in Lake county, an emergency exists; therefore this act shall take effect from and after its passage.

Approved March 4, 1881.

AN ACT

ENTITLED AN ACT TO ENABLE THE SEVERAL COUNTIES OF THE STATE TO FUND THEIR FLOATING INDEBTEDNESS.

Be it enacted by the General Assembly of the State of Colorado:

Counties having debt exceeding $10,000 may fund same.

SECTION 1. It shall be the duty of the county commissioners of any county having a floating indebtedness exceeding ten thousand dollars, upon the petition of fifty of the electors of said counties [county], who shall have paid taxes upon property assessed to them in said county in the preceding year, to publish for the period of thirty days, in a newspaper published within said county, a notice requesting the holders of the warrants of such county to submit, in writing, to the board of county commissioners, within thirty days from date of the first publication of such notice, a statement of the amount of the warrants of such county, which they will exchange at par and accrued interest, for the bonds of such county, to be issued under the provisions of this act, taking such bonds at par. It

Holders of warrants to submit statement of terms upon which they will exchange same for bonds.

Notice of submission of question to vote of people.

shall be the duty of such board of county commissioners, at the next general election occurring after the expiration of thirty days from the date of the first publication of the notice aforementioned, upon the petition of fifty of the electors of such county, who shall have paid taxes upon property assessed to them in said county in the preceding year, to submit to the vote of the qualified electors of such county, who shall have paid taxes on property assessed to them in said county, in the preceding year, the question whether the board of county commissioners shall issue bonds of such county, under the provisions of this act, in exchange, at par, for the warrants of such county, issued prior to the date of the first publication of the aforesaid notice; or they may submit such question at a special election, which they are hereby empowered to call for that purpose, at any time after the expiration of thirty days from the date of the first publication of the notice aforementioned, on the petition of fifty qualified electors as aforesaid; and they shall publish, for the period of at least thirty days immediately preceding such general or special election, in some newspaper published within such county, a notice that such question will be submitted to the duly qualified electors as aforesaid, at such election. The county treasurer of such county shall make out and cause to be delivered to the judges of election, in each election precinct in the county, prior to the said election, a certified list of the tax payers in such county, who shall have paid taxes upon property assessed to them in such county in the preceding year; and no person shall vote upon the question of the funding of the county indebtedness unless his name shall appear upon such list, nor unless he shall have paid all county taxes assessed against him in such county in the preceding year. If a majority of the votes lawfully cast upon the question of such funding of the floating county indebtedness shall be for the funding of such indebtedness, the board of county commissioners may issue to any person or corporation holding any county warrant or warrants, issued prior to the date of the first

Publication of notice of submission.

County treasurer to furnish judges with list of tax-payers.

Vote required to fund.

publication of the aforementioned notice, coupon bonds of such county in exchange therefor, at par. No bonds shall be issued of less denomination than one hundred dollars, and if issued for a greater amount, then for some multiple of that sum, and the rate of interest shall not exceed eight per cent. per annum. The interest to be paid semi-nnnually, at the office of the county treasurer, or in the city of New York, at the option of the holders thereof. Such bonds to be payable at the pleasure of the county, after ten years from the date of their issuance, but absolutely due and payable twenty years after date of issue. The whole amount of bonds issued under this act shall not exceed the sum of the county indebtedness at the date of the first publication of the aforementioned notice, and the amount shall be determined by the county commissioners, and a certificate made of the same, and made a part of the records of the county; and any bond issued in excess of said sum shall be null and void; and all bonds issued under the provisions of this act shall be registered in the office of the State Auditor, to whom a fee of ten cents shall be paid for recording each bond.

Size of bonds.

Interest; rate, when and where paid.

Bonds payable at pleasure of county after ten years and absolutely due after twenty years.

Bonds to be registered.

SEC. 2. All bonds which may be issued under the provisions of this act, shall be signed by the chairman of the board of county commissioners, countersigned by the county treasurer of the county, and attested by the clerk of said county, and bear the seal of the county upon each bond, and shall be numbered and registered in a book kept for that purpose by the county treasurer, in the order in which they are issued; each bond shall state upon its face the amount for which the same is issued, to whom issued, and the date of its issuance.

How signed, sealed, numbered, and registered.

SEC. 3. The county commissioners shall be authorized to prescribe the form of such bonds, and the coupons thereto, and to provide for the half-yearly interest accruing on such bonds actually issued and delivered; they shall levy annually a sufficient tax to fully discharge such interest, and for the ultimate redemption of such bonds, they shall

Authority of county commissioners in relation to bonds, etc.

levy annually, after nine years from the date of such issuance, such tax upon all the taxable property in their county, as shall create a yearly fund equal to ten (10) per cent. of the whole amount of such bonds issued; which fund shall be called the redemption fund. And all taxes for interest on and for the redemption of such bonds, shall be paid in cash only, and shall be kept by the county treasurer as a special fund, to be used in payment of interest on and for the redemption of such bonds only; and such taxes shall be levied and collected as other taxes.

Taxes for interest, etc., to be paid in cash.

When and how bonds to be paid.

SEC. 4. It shall be the duty of the county treasurer, when there are sufficient funds in his hands to the credit of the redemption fund, to pay in full the principal and interest of any such bonds, immediately to call in and pay as many of such bonds and accrued interest thereon, as the funds on hand will liquidate, as hereinbefore provided. Such bond or bonds shall be paid in the order of their number; and when any bonds or coupons issued under this act are taken up, it shall be the duty of such treasurer to certify his action to the board of county commissioners, who shall cancel the same, so that they can be plainly identified, and cause a record to be made of the same; and when it is desired to redeem any of such bonds, the county treasurer shall cause to be published for thirty days, in some newspaper at or nearest the county seat of the county, and in a newspaper published in the city of Denver, a notice that certain county bonds, by numbers and amounts will be paid upon presentation, and at the expiration of thirty days such bonds shall cease to bear interest.

Vote for and against funding, how cast and canvassed.

SEC. 5. All persons voting on the question as hereinbefore provided, shall vote by separate ballot, which shall be deposited in a box to be used for that purpose only, and on which ballot shall be printed the words, "For funding county debt," or "Against funding county debt;" and if, upon canvassing to [the] vote, (which shall be canvassed in the same manner as the vote for county officers) it shall appear that a majority of all the votes cast upon the question

so submitted, are for funding the county debt, then the county commissioners shall be authorized to carry out the provisions of this act, and the canvassing board shall certify the vote, and it shall be made part of the county records. The judges of election shall make and certify to the clerk of the county, a separate list of the names of the electors voting upon the question of the funding of the county indebtedness, in the order in which the ballot of the elector so voting is received, and each ballot shall be numbered in the order in which it is received, and the number recorded and [on] the said list of voters opposite the name of the voter who presents the ballot.

Execution of provisions herein.

SEC. 6. As soon as possible after such election, if the bonds shall be voted, the officers herein mentioned and authorized, shall proceed to execute the provisions of this act.

Repeal.

SEC. 7. All acts, or parts of acts in conflict herewith, are hereby repealed.

Emergency.

SEC. 8. That inasmuch as several counties now have a large floating indebtedness and would be very much benefitted by the immediate passage of this act, it is the opinion of this General Assembly that an emergency exists; therefore this act shall be in force and take effect from and after its passage.

Approved February 21, 1881.

AN ACT

TO ESTABLISH THE COUNTY OF PITKIN AND TO PROVIDE FOR TERMS OF COURT THEREIN.

Be it enacted by the General Assembly of the State of Colorado:

Establishment and boundaries.

SECTION 1. That the county of Pitkin is hereby established with the legal capacity and functions of other

counties in this state, and with boundaries as follows: Beginning at the point on the summit of the survey or National range when [where] the Elk mountain range intersects the same; thence in a westerly and north-westerly direction along the summit of the Elk mountain range to Snow Mass mountain; thence due west to the divide west of Rock creek; thence along said divide in a north-westerly direction to the southern boundary of Summit county; thence east along the southern boundary of Summit county to the top of the National range, being the west boundary line of Lake county; thence along the summit of said range in a south-easterly direction to the place of beginning.

County officers.

SEC. 2. All county and precinct officers who live in that part of Gunnison county that is hereby made Pitkin county shall hold their respective offices for the terms for which they may have been elected, and are hereby declared to be legal officers of Pitkin county, and the Governor shall appoint such other officers as may be necessary to carry on the county government of said Pitkin county to hold their respective offices until after the next general election in said county or until their successors are duly elected and qualified according to law.

County seat.

SEC. 3. At the next general election to be held in said Pitkin county, the county seat of said county shall be selected and established by a vote of the people of said county as provided in section twenty-two, chapter twenty-one, of the General Laws of the state.

County seat.

SEC. 4. Until such county seat is selected and established, as provided in section three (3) of this act, the town of Aspen shall be the county seat of said county and at said town of Aspen, all terms of the district and county courts for said county of Pitkin shall be held and the county offices of said Pitkin county shall be kept.

Terms county court.

SEC. 5. There shall be held annually in said county, four terms of the county court, commencing on the first

Monday in the month [months] of March, June, September, and December.

Transfer of causes in action.

SEC. 6. All suits, civil and criminal, now pending in the District and County Courts of Gunnison county, wherein the cause of action accrued in the territory embraced in the new county of Pitkin, or wherein the defendent or defendants reside therein, shall be, as soon as the officers of said Pitkin county shall have been appointed and qualified, transferred by the clerks or judges of said Gunnison county to the courts of the same jurisdiction in said county of Pitkin.

County records.

SEC. 7. All county records or other county property, heretofore belonging in or to the county of Gunnison, shall be and remain the property of said county of Gunnison.

Transcript of records.

SEC. 8. A transcript of the records of all property situated in the county of Pitkin shall be furnished to the county clerk of said county by the county clerk of Gunnison county upon payment of a reasonable fee for copying the same, and such transcript may be entered upon the record books of Pitkin county, and shall be held and deemed to be a good and legal record.

Apportionment of indebtedness.

SEC. 9. The present indebtedness of the county of Gunnison shall be apportioned between the counties of Gunnison and Pitkin in proportion to the taxable property in each, as shown by the assesment roll for the year of 1880.

County commissioners to adjust revenue and apportion indebtedness, when and how.

SEC. 10. The board of county commissioners of said counties of Gunnison and Pitkin shall have full power and authority to adjust and settle all matters of revenue, that it may be necessary to adjust and settle on account of the formation of said new county of Pitkin, and also to apportion the indebtedness of said county of Gunnison as specified in section nine of this act, and for these purposes the said commissioners shall meet at the town of Gunnison City, upon ten days' notice in writing being given by the commissioners of either county to the commissioners of either

county, to the commissioners of the other county, at any time after the officers of Pitkin county shall have been duly appointed and qualified, and a majority of the united boards of commissioners of the counties named shall be a legal quorum to adjust said revenue and apportion said indebtedness. In case there should not be a quorum present at said meeting, or in case the said commissioners fail to agree [on] the adjustment of the revenue and the apportionment of the revenue and the apportionment of indebtedness, then, upon request of either of the said boards of commissioners, the government [Governor] of this state is hereby authorized and required to appoint some disinterested person to adjust and settled [settle] said matters of revenue and indebtedness, and his decision shall be final. The expenses of said arbitration, if any shall be required, shall be paid in equal proportion by said counties of Gunnison and Pitkin.

Classification of county.

SEC. 11. That for the purpose of establishing the fees of county, precincts [precinct] and other officers, said county shall be a county of the third class.

Approved February 23, 1881.

AN ACT

TO ESTABLISH AND CREATE THE COUNTY OF DOLORES, AND TO PROVIDE FOR TERMS OF COURT THEREIN.

Be it enacted by the General Assembly of the State of Colorado:

Establishment.

SECTION 1. That the county of Dolores is hereby created and established with the legal capacities and functions of other counties of this state, and with boundaries

Boundaries.

as follows: Commencing at the summit of the mountain known as the "Lizards Head," near the head waters of the Lake Fork of the San Miguel river, in the present county

of Ouray; thence westward from the summit of, said mountain along the summit of the range dividing the waters of the San Miguel and Dolores rivers to the summit of Lone Cone mountain; thence west to the western line of the State of Colorado; thence south along said western line to the north line of La Plata county; thence east along said north line to the southwest corner of San Juan county; thence northeast along the summit of the range dividing the waters of the South Fork of Dolores river from the waters of Hermoso and Cascade creeks to the summit of the range at the head of the East Fork of the Dolores river; thence northwest along the summit of the range dividing the waters of said South Fork of Dolores river from the waters of the Lake Fork of the San Miguel river to the summit of said range south of the pass now crossed by the trail from the Fish Lakes to Rico; thence from the summit of said range on a direct line to the summit of said "Lizards Head" mountain, the place of beginning.

Officers.

SEC. 2. All county and precinct officers who live in that portion of Ouray county that is hereby made Dolores county, shall hold their respective offices for the terms for which they may have been elected, and are hereby declared to be legal officers of Dolores county, and the Governor shall appoint such other officers as may be necessary to carry on the county government of said Dolores county, to hold their respective offices until after the next general election in said county, or until their successors are duly elected and qualified according to law.

County seat.

SEC. 3. At the next general election to be held in said Dolores county, the county seat of said county shall be selected and established by a vote of the people of said county, as provided in section twenty-two, chapter twenty-one, of the General Laws of the state.

County seat.

SEC. 4. Until such county seat is selected and established as provided in section three of this act, the town of Rico shall be the county seat of said county, and at said

town of Rico all terms of the district and county courts for said county of Dolores shall be held, and the county offices of said Dolores county shall be kept.

Terms of county court.

SEC. 5. There shall be held annually, in said county, four terms of the county court, commencing on the first Monday in the months of March, June, September and December.

Senatorial, representative and judicial district.

SEC. 6. The county of Dolores is hereby attached and made a part of the twentieth senatorial district and of the fourth judicial district, and is also hereby attached to the counties of Ouray and San Juan for representative purposes, and shall so remain until otherwise changed by law.

Transfer of causes.

SEC. 7. All suits, civil and criminal, now pending in the district and county courts of Ouray county, wherein the cause of action accrued in the territory embraced in the new county of Dolores, or wherein the defendant or defendants reside therein, shall be, as soon as the officers of said Dolores county shall have been appointed and qualified, transferred by the proper clerks or judges of the said courts of said Ouray county, to the courts of the same jurisdiction in said county of Dolores; and all costs in said suits paid by the county of Ouray up to the time the same are so transferred, shall be refunded to the county by which said costs shall have been paid, and said costs shall not be included in the amount of county indebtedness to be apportioned as hereinafter provided.

Terms of district court.

SEC. 8. There shall be held, annually, in said county of Dolores, two terms of the district court, commencing on the first Monday of the months of July and September.

Records.

SEC. 9. All county records or other county property heretofore belonging in or to the county of Ouray shall be and remain the property of said county of Ouray.

Transcript of records.

SEC. 10. A transcript of the records of all property situated in the county of Dolores shall be furnished to the county clerk of said county by the county clerk of Ouray county, upon payment of the fees allowed by law for

copying the same, and such transcript, after being properly certified by the clerk of said county, may be entered upon the record books of Dolores county, and shall be held and deemed to be a good and legal record.

Apportionment of indebtedness.

SEC. 11. The present indebtedness of the county of Ouray shall be apportioned between the county of Ouray and Dolores in proportion to the ratio which the taxable property in that portion of Dolores county which was formerly a part of Ouray county, shall be to the taxable property in the county of Ouray, as shown by the assessment roll of 1880.

Settlement of matters of revenue and apportionment, how made.

SEC. 12. The board of county commissioners of said counties of Ouray and Dolores, shall have full power and authority to adjust and settle all matters of revenue that it may be necessary to adjust and settle on account of the formation of said new county of Dolores, and also to apportion the indebtedness of said county of Ouray as specified in section eleven of this act, and for these purposes the said commissioners of Ouray and Dolores counties shall meet at the town of Ouray, upon ten days' notice in writing being given by the commissioners of either county to the commissioners of the other county, at any time after the officers of the county of Dolores shall have been duly appointed and qualified, and a majority of the united boards of commissioners of the counties of Ouray and Dolores shall be a legal quorum to adjust said revenue and apportion said indebtedness of Ouray county. In case there shall not be a quorum present at any of said meetings, or in case the said commissioners fail to agree on the adjustment of the revenue and the apportionment of indebtedness of said county, then upon request of either of the said boards of commissioners the Governor of this state is hereby authorized and required to appoint a disinterested person to adjust and settle said matters of revenue and indebtedness, and his decision shall be final. The expenses of such arbitration, if any shall be required as to the present indebtedness of Ouray county, shall be paid in equal proportion by said counties of Ouray and Dolores.

Emergency.

SEC. 13. Whereas, it is important that the annual assessment of taxes for the year 1881, in the said county of Dolores, be made at the time prescribed by law, and other interests of the people inhabiting said county require that this act shall take effect immediately upon its passage; therefore, in the opinion of this General Assembly, an emergency, contemplated by section nineteen of article five of the constitution, exists, and this act shall take effect and be in force from and after its passage.

Approved February 19, 1881.

AN ACT

TO REQUIRE COUNTY COMMISSIONERS OF THE SEVERAL COUNTIES IN THIS STATE TO GIVE BONDS FOR THE FAITHFUL DISCHARGE OF THE DUTIES OF THEIR OFFICE, AND TO PRESCRIBE PENALTIES FOR REFUSING TO GIVE THE REQUIRED BONDS.

Be it enacted by the General Assembly of the State of Colorado:

County commissioners to give bonds.

SECTION 1. County commissioners of the several counties of this state are hereby each required to execute a bond, payable to the people of the state of Colorado,

How bonds conditioned.

conditioned that he will faithfully and honestly discharge the duties of his office as such county commissioner, so long as he shall continue in office, and that he will not, either directly or indirectly, misappropriate, or permit to be misappropriated, any of the funds or property of said county during his continuance in office, that he will not during his continuance in office, be interested or concerned in any manner, directly or indirectly, in any sale, purchase, bargain or contract, whereby any sum of money, or thing in action, shall become due to such commissioner

from such county, or any person or persons from such county, and that he will at all times transact the business of such county economically, and to the best of his ability, for the best interest of such county.

Amount of bond.

SEC. 2. Said bond shall, for county commissioners in counties of the first class be in the penal sum of twenty-five thousand dollars; in counties of the second class in the penal sum of ten thousand dollars; and in counties of the third class in the penal sum of five thousand dollars. For the purpose of the classification of counties under this section, counties shall be classified as they now are, or may be hereafter, by law, classified for the purpose of regulating the compensation and fees for county and precinct officers in the several counties of this state.

When to be given.

SEC. 3. Whenever any county commissioner shall be elected or appointed in any county of this state, he shall give such bond and shall procure the same to be approved before entering upon the duties of his office. The county commissioners now in office in the several counties in the state, shall give such bond and procure the approval thereof, within thirty days after the approval of this act. [this act shall take effect].

Failure to file bond works vacancy in office.

SEC. 4. If any county commissioner in office at the time of the passage of this act, shall fail to file a bond and procure the same to be approved within thirty days from the time of this act shall take effect, the county clerk or recorder of such county shall thereupon immediately certify to the Governor that no bond so approved has been filed in his office, and the commission [commissioner] so in default shall be deemed and held to have vacated his office as county commissioner, and from thence shall cease to be such county commissioner; and all acts and doings of such person as a county commissioner shall thereafter be void absolutely, and the same steps shall be taken to fill such vacancy thus created, as are now provided by law in case of the death or resignation of such officer.

Penalty for acting or attempting to act without giving bond.

SEC. 5. If any county commissioner shall act, or attempt to act, as such officer, or shall attempt to perform any of the duties, or exercise any of the rights or privileges of county commissioner after failing to give bond as aforesaid, or after judgment of removal from such office shall have been entered as provided in section one hundred and fifteen of the criminal code, section seven hundred and ten of the General Laws, he shall be deemed guilty of a high misdemeanor, and shall be indicted therefor, and upon conviction, shall be fined in a sum not less than five hundred dollars and not more than five thousand dollars, and imprisonment in the county jail not less than thirty days nor more than six months.

Bond to be filed with county clerk.

SEC. 6. Said bond, when approved by the judge of the district court, shall be filed by the clerk or recorder of such county, and shall be recorded by him in the records of said counties [county.]

Upon breach of bond district attorney to prosecute.

SEC. 7. Upon default or breach of any of the conditions of said bond by any county commissioner in this state, the district attorney for the district in which such county is situate, or in case of the absence or inability of the district attorney to act, the judge of the district court shall appoint some attorney of good standing, who shall institute an action in the district court of such county, in the name of such county, against the principal and sureties upon such bond or bonds, or for the damage such county shall have sustained by reason of the breach of the conditions of such bond or bonds of such commissioners.

Damages for breach of bond.

SEC. 8. In such action the county shall recover all damages, both proximate and remote, which it may have sustained by reason of any breach of the conditions of such bonds; and if it shall appear on the trial of any such case that such breach was tortious, fraudulent, or wilful, and the county shall not be able to recover judgment against the sureties, or, having recovered judgment, shall be unable to collect the same from said principal or his sureties, in such case the county may have execution against

Execution against body.

the body of such principal, who shall be confined in the county jail of said county until such judgment and costs are paid; *provided*, such imprisonment shall not exceed one year.

Extent of recovery on bond.

SEC. 9. In all suits upon official bonds of county commissioners, the recovery against one of the board shall not be limited to a proportionate amount of the damage proven, but the recovery on the bond of each shall be for the whole amount of damage proven; and any member of a board of commissioners, who, knowingly, acquiesces in any misappropriation of the funds of a county, or in the allowance of bills, which are not legally allowable, or in the payment thereof, and the sureties of such county commissioner shall be liable upon his bond for all damages, both proximate and remote, that such county shall sustain by reason thereof, to be recovered as above provided.

Approved March 1, 1881.

AN ACT

TO AMEND SECTION ONE HUNDRED AND TWENTY-ONE OF AN ACT CONCERNING COUNTY OFFICERS AND COUNTY GOVERNMENT, AND REPEALING LAWS ON THESE SUBJECTS, APPROVED MARCH 24, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one hundred and twenty-one of an "act concerning county officers and county government," and repealing laws on these subjects, approved March 24, 1877, of the General Laws, be and the same is hereby amended, so as to read as follows:

Sec. 121. A county assessor shall be elected in each county, at the general election, who shall give bond to the

people of the State of Colorado, with two or more sufficient sureties, in a penal sum of not less than six thousand dollars, for the performance of his duties, according to law, and to the satisfaction of the board of county commissioners, and subscribe an oath or affirmation for the faithful performance of his duties as such assessor, and who shall be a qualified elector of said county, and shall hold his office for two years, and until his successor is elected and qualified.

Approved February 11, 1881.

AN ACT

TO AMEND SECTION ELEVEN (11) OF CHAPTER TWENTY-TWO (22) OF THE GENERAL LAWS OF THE STATE OF COLORADO, CONCERNING COUNTIES, COUNTY OFFICERS AND COUNTY GOVERNMENT, AND REPEALING LAWS ON THESE SUBJECTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section eleven of chapter twenty-two of the General Laws, concerning counties, county officers and county government, and repealing laws on these subjects, approved March 24, 1877, shall be amended so as to read as follows, to wit:

Division of counties into commisioners district; election of commissioners, etc.

SEC. 11. Each county shall be divided, by the first board of commissioners holding office, into three compact districts, as equal in population as possible, numbered, respectively, one, two and three, and not subject to alteration oftener than once in two years; and one commissioner shall be elected from each of such districts, by the voters of the whole county, as herein provided. Such division of the county into districts shall be made within six months after the first board of county commissioners are elected

to office; *provided*, that if either or any of the commissioners shall, during his term of office, remove without the district [in] which he resided when elected, his office shall thereupon become vacant, and upon such vacancy occurring, it shall be the duty of the remaining commissioner, or commissioners, to certify such facts to the Governor, and thereupon the vacancy, or vacancies, shall be filled as provided by law: *Provided, further*, that no county judge shall be eligible or hold any other county office within the county. Whereas, in [it is] the opinion of the General Assembly that an emergency exists; therefor [therefore] this act takes effect and [shall] be in force from and after its passage.

Approved February 21, 1881.

AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO REPEAL ALL EXISTING LAWS IN RELATION TO THE CREATION, JURISDICTION, POWERS, PROCEEDINGS AND PRACTICE OF THE COUNTY COURTS OF THE STATE OF COLORADO, AND TO ENACT OTHER PROVISIONS IN LIEU THEREOF, APPROVED FEBRUARY 12, 1879.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That an act to amend an act entitled an act to repeal all existing laws in relation to the creation, jurisdiction, powers, proceedings and practice of the county courts of the State of Colorado, and to enact other provisions in lieu thereof, be, and [the same] is hereby amended so as to read as follows: Sec. 1. There shall be held annually, in each of the counties of Arapahoe, Weld, El

Terms.

Paso, Park, Saguache, Summit, Rio Grande, Lake, Summit and Chaffee, six terms of the county court, commencing on the first Monday in the months of January, March, May, July, September and November. In the county of Costilla there shall be held four terms of said court in each year, commencing as follows: on the second Monday of the months of March, June, September and December; in the county of Conejos there shall be held four terms of said court in each year, commencing on the third Monday of the months of March, June, September and December; and in each of the remaining counties of the state, there shall be held annually four terms of the said court, commencing on the first Monday in the months of March, June, September and December, except in the county of Las Animas, where the terms of said court shall begin on the first Mondays of January, April, July and October.

Approved February 21, 1881.

AN ACT

RELATING TO THE COUNTY COURTS OF THE COUNTIES OF COSTILLA AND CONEJOS, AND TO PROVIDE FOR THE TIME OF HOLDING TERMS OF THE SAME.

Be it enacted by the General Assembly of the State of Colorado:

Terms of county court in Conejos and Costilla counties.

SECTION 1. In each of the counties of Costilla and Conejos four terms of the county court shall be held in each year, commencing as follows: In the county of Costilla, on the second Monday of the months of March, June, September and December; and in the county of Conejos, on the third Monday of the months of March, June, September and December.

Repeal.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act, are hereby repealed.

SEC. 3. In the opinion of this General Assembly an emergency exists; therefore, this act shall take effect and be in force from and after its passage. Emergency.

Approved February 12, 1881.

AN ACT

TO REGULATE ELECTIONS FOR THE REMOVAL OF COUNTY SEATS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That whenever an election shall be ordered by the board of county commissioners of any county to ascertain the sense of the legal voters of such county upon the question of removal or location of the county seat of such county, it shall be the duty of such board of county commissioners to appoint special judges and registers of such elections, and to provide a special ballot box in each voting precinct, in which shall be deposited all the ballots cast at such election in such precinct on the question of location or removal of the county seat. Duty of county commissioners.

SEC. 2. It shall be the duty of the judges and registers so appointed to make a special registration of the voters of each precinct, who have resided in the county at least six months, and in such precinct at least ninety days, prior to the day designated for holding such election, which day shall be the day designated by law for holding a general election and no other. Duty of judges and registers.

SEC. 3. The election shall be held at the same places at which the general election is ordered to be held, but the vote for or against removal or location of the county seat shall be by a special ballot, separate and distinct from the general ticket voted at said election, which ballot shall be Election; place of, special ballot, etc.

deposited in the special ballot box, provided for in section 1st [one] of this act, and no vote shall be counted for or against said removal or location which is not deposited in such special ballot box as herein provided.

Removal not to be made until 30 days after canvass, etc.

SEC. 4. No county seat shall be removed until the expiration of thirty days after the canvass of the votes had by the county canvassers upon the question of location or removal, nor until the board of county commissioners of such county shall have made and entered of record on their journal an order directing such removal, which order the said board shall make within thirty (30) days after the county canvass is completed, unless enjoined or restrained from so doing by an order of the district court of said county or the judge thereof, or by the supreme court.

All laws relating to elections, applicable.

SEC. 5. All laws now in force relating to elections shall apply to elections held upon the question of removal or location of county seats, except that the question of location of such county seat shall be contested in the district court of said county in the first instance, but may be removed to the district court of any other county under the provisions of the code relating to change of the place of trial, and shall be also subject to appeal or writ of error to the supreme court: *Provided*, that not less than two-thirds of all the legal votes cast shall be necessary to effect the removal of the county seat of any county in this state.

Laws governing contests, applicable.

SEC. 6. All laws governing contests of elections shall be held applicable to contests of county seat elections, except that the board of county commissioners of the county shall in all cases be the contestee and that the contest shall be conducted in the district court of the proper county. Such district court or the judge thereof in vacation may appoint a referee to take testimony in relation to the grounds of contest alleged by the contestor, which referee may sit to take evidence in any precinct of his county.

Approved February 11, 1881.

AN ACT

IN RELATION TO THE SERVICE OF SUBPŒNAS IN ACTIONS AND PROCEEDINGS IN THE COURTS OF THIS STATE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The service of any subpœna in any of the courts of record in this state may be made by any person of full age not a party to the action or proceeding. Proof of service so made shall be by the affidavit of the person making the same, showing the time, place and manner in which, and the person upon whom such services [service] shall have been made.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved February 18, 1881.

AN ACT

TO ESTABLISH JUDICIAL DISTRICTS IN THE STATE OF COLORADO, AND TO PROVIDE FOR THE HOLDING OF DISTRICT COURTS THEREIN, AND THE MANNER OF COMMENCING AND ADJOURNING THE SAME, AND RETURN OF PROCESS, AND PROVIDING FOR TRANSFER OF CAUSES THEREIN, AND FOR CONTINUING CAUSES THEREIN, IN CASE OF ADJOURNMENT, AND TO REPEAL ALL OTHER ACTS IN RELATION THERETO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The state shall be divided into seven judicial districts, and terms of the district court shall be Terms.

held in said districts, at the county seats of the several counties therein.

First district.

SEC. 2. The following named counties shall constitute the first district, to-wit: Boulder, Clear Creek, Gilpin, Grand, Routt and Jefferson. Terms of the district court shall be held in said district, as follows, commencing at the days following, in each and every year: In the county of Boulder, on the first Monday in February, and on the first Monday in May, and on the first Monday in October. In the county of Clear Creek, on the first Monday of June, and the first Monday in December. In the county of Gilpin, on the first Monday of January, and on the first Monday of July. In the county of Grand, on the second Monday of August. In the county of Jefferson, on the first Monday in April, and on the first Monday in November. The county of Routt to remain attached to the county of Grand for judicial purposes.

Second district.

SEC. 3. The following named counties shall constitute the second district, to wit: Arapahoe, Weld and Larimer. Terms of the district court shall be held in said district as follows, commencing at the days following, in each and every year: In the county of Arapahoe on the second Tuesday of January, on the third Tuesday of April, [and] on the first Tuesday of September. In the county of Weld, on the third Tuesday of March, and the third Tuesday of October. In the county of Larimer on the first Tuesday of March, and on the first Tuesday of October.

Third district.

SEC. 4. The following named counties shall constitute the third district, to wit: Pueblo, Bent, Las Animas and Huerfano. Terms of the district court shall be held in said district as follows, commencing at the days following, in each and every year: In the county of Pueblo on the third Monday of April, and the third Monday of November. In the county of Las Animas on the first Monday of March, and on the third Monday of September. In the county of Bent on the first Monday of September. In the county of Huerfano on the third Monday of October.

Fourth district.

SEC. 5. The following named counties shall constitute the fourth district, to wit: Douglas, Elbert, El Paso, Park, and Chaffee. Terms of [the] district court shall be held in said district as follows, commencing at [the] days following, in each and every year: In the county of Elbert, on the first Tuesday of March. In the county of El Paso, on the second Monday of April, and on the first Monday of November. In the county of Park, on the fourth Monday of April, on the fourth Monday of August, and on the fourth Monday of December. In the county of Chaffee, on the second Monday of January, on the second Monday of May, and on the second Monday of September. In the county of Douglas, on the first Monday of December.

Fifth district.

SEC. 6. The following named counties shall constitute the fifth district, to wit: Lake, Pitkin and Summit. Terms of the district court shall be held in said district as follows, commencing at the days following, in each and every year; In the county of Lake, on the first Monday of April, on the first Monday of August, and on the first Monday of January. In the county of Summit, on the first Monday of July, and on the third Monday of November. And in the county of Pitkin on the third Monday of July.

Sixth district.

SEC. 7. The following named counties shall constitute the sixth district, to wit: Fremont, Custer, Conejos, Costilla, Rio Grande and Saguache. Terms of the district court shall be held in the said district, as follows, commencing at the days following, in each and every year: In the county of Fremont, on the first Monday of April, and on the first Monday of November. In the county of Custer, on the fourth Tuesday of March, on the fourth Tuesday of July, and on the fourth Tuesday of November. In the county of Conejos, on the first Monday of May. In the county of Costilla, on the third Monday of April. In the county of Saguache, on the fourth Tuesday of May and on the fourth Tuesday of October. In the county of Rio Grande, on the second Monday of November.

Seventh district.

SEC. 8. The following named counties shall constitute the seventh district, to wit: Gunnison, Hinsdale, San Juan, Ouray, La Plata and Dolores. Terms of the district court shall be held in said district as follows, commencing at the days following, in each and every year: In the county of Gunnison on the second Monday of May, and on the first Monday of October. In the county of La Plata on the fourth Monday of May, and on the third Monday of January. In the county of San Juan on the third Monday of June, and on the third Monday of August. In the county of Ouray on the third Monday of July, and on the third Monday of September. In the county of Hinsdale on the second Monday of April, and on the first Monday of August, and first Monday of December. In the county of Dolores on the first Mondays of July and September.

In what manner causes pending to be proceeded with.

SEC. 9. All cases, issues and proceedings, civil or criminal, now pending in the district court of any of the counties above named, either upon change of venue or otherwise, in which there has been service of process, including writs of attachment, publication or appearance by the several parties to any former term, or which may have been brought under the provisions of the code, shall be held to be pending at the first term of said court as fixed by this act, and may be regularly proceeded with at such term in the same manner as though pending at the next regular term as fixed by law before the passage of this act; and the transfer of the county from one judicial district to another shall not be construed to effect [affect] in any manner causes pending in the court of such county previous to the transfer.

Governor to appoint judges.

In case there shall be no judge of the district court in any of the judicial districts by this act established, the Governor shall appoint such judges as may be necessary to provide each of said judicial districts with a judge of a district court; and the judge or judges so appointed shall severally appoint district attorneys in said judicial districts

Judges to appoint district attorneys.

as now provided by law: *Provided*, that any term of the district court in any county in this state, now being held, may be continued until the first term of the court in the district, as provided in this act, in which such county is situated; and in case of any district in which in consequence of the formation of a new judicial district, there is no district judge in such district, the judge to be appointed, when appointed and duly qualified for such district, shall be authorized to hold the remainder of any such term. Proviso.

SEC. 10. At any regular term of the district court, as provided by this act, within any county, such court may be, by an order, to be entered of record, appoint a special term of the district court, within and for such county, to be held at any future time, when by law the judge of such district court is not required to attend upon and hold a term of the district court in any other county within such district; and the court may in such order specify and direct whether a grand jury or a petit jury, or both, or neither, shall be summoned to attend such term, and that such term shall be a term for the return of original or *mesne* process to be issued in causes to be thereafter commenced therein, or that the same shall be for trial of causes and issues pending only; in case a grand or petit jury is required to attend any such special term of court, the same shall be chosen and summoned, as is now or may hereafter be provided by law in the case of the regular terms of such district courts. And any district judge may, in vacation, call a special term of court within and for any county in the manner aforesaid by any [an] order to be entered of record on the journal of the court within such county, under such general rules previously adopted therefor for the government of such matters in his district; *provided*, public notice of the holding of such term be given at least thirty days before the commencing thereof, in such manner as may have been provided by such general rules. Special terms.

SEC. 11. Whenever it shall happen that the judges [judge] shall fail to reach the place appointed for holding Adjournment of court in case judge fails to reach place in proper time.

any term of the district court by two o'clock in the afternoon of the first day of said term, it shall be the duty of the clerk of such court to adjourn said court until two o'clock of the day following, and in case the judge shall fail to arrive at the expiration of such adjournment, it shall be the duty of said clerk to adjourn the court until Monday of the ensuing week, at ten o'clock A. M. of that day. And whenever it shall happen, during any term of court, that the judge shall fail to appear to open court in pursuance of any adjournment made at that term, it shall be the duty of the clerk to adjourn the court until the hour of ten o'clock A. M. of the following day, and in case the judge does not appear at the hour of ten o'clock A. M. of that day, the clerk shall adjourn the court for the period of one week from that day to the hour of ten o'clock A. M., and shall immediately notify the Governor of the failure of the judge to appear, and it shall be the duty of the Governor to forthwith appoint, in writing, one of the judges of the supreme court to hold the remainder of said term, unless the Governor be satisfied that no real necessity exists requiring him so to do.

Discharge of jurors, etc., and continuance of proceedings to day of adjournment.

SEC. 12. In case of any adjournment by the clerk as provided for in the foregoing section, he shall discharge the jurors and recognized persons in attendance until the expiration of the adjournment; and all proceedings, actions, motions and orders shall be deemed to be continued over until the day to which the court stands adjourned. And all jurors, witnesses and recognized persons shall be under the same obligation to appear at the court at such adjourned day, as they were to appear upon the day first appointed. And all proceedings, orders, judgments and decrees had, made and pronounced by the court after any such adjournment, by whatever judge the court may be held, shall be in all respects valid and binding, the same as if no such adjournment had been necessitated.

In case judge has been of counsel or is interested in suit.

SEC. 13. Whenever the judge has been of counsel, or is interested in any suit or proceeding pending in any

district court, he may request the judge of some other district to sit and try said suit or proceeding; and in case the judge or judges so requested fail, neglect, or refuse to sit and try such suit or proceedings, the judge is authorized to order a change of venue in such suit or proceeding, and shall send the same to the nearest county in some other district wherein no such disability exists on behalf of the judge to hear and try the same. Thereupon the clerk shall enter such order of record, and make out certified copies of all orders made in the case, and at once transmit all the papers in the suit and proceedings to the clerk of the court to which the change is ordered, the same as changes of venue under existing laws.

Sheriff to notify jurors of postponement; new venire may issue.

SEC. 14. That where petit or grand jurors have, previous to the passage of this act, been summoned to attend at a term of court in any county, which term is herein postponed, it shall be the duty of the sheriff of said county, as soon as practicable after the passage of this act, to notify such jurors by mail or otherwise, of such postponement, and a new venire may issue at the proper time, summoning such persons to appear and act as jurors at the first succeeding term of such court, as fixed by this act.

Repeal.

SEC. 15. All act [acts] and parts of acts in conflict with this act be, and the same are hereby repealed.

Emergency.

SEC. 16. In the opinion of this General Assembly an emergency exists; therefore this act shall take effect and be in force from and after its passage.

Approved March 5, 1881, at 5.10 P. M.

AN ACT

TO AMEND SECTION ONE OF CHAPTER TWENTY-NINE, ENTITLED "DIVORCE AND ALIMONY," OF THE GENERAL LAWS OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one (1) of chapter twenty-nine (29), entitled "divorce and alimony," of the General Laws of Colorado, be and the same is hereby amended so as to read as follows, to wit:

Causes for divorce; not to affect legitimacy of children, except marriage declared void.

In any case in which a marriage has been or hereafter may be contracted and solemnized between any two persons, and it shall be adjudged in the manner hereinafter provided, that either party at the time of the marriage was, and continued to be impotent naturally, or that he or she had a wife or husband living at the time of such marriage, or that either party has committed adultery subsequent to the marriage, or has wilfully deserted and absented himself or herself from the husband or wife, without any reasonable cause, for the space of one year, or has wilfully deserted and absented himself or herself from the husband or wife and departed from this state, without any intention of returning, or that a husband being in good bodily health shall fail to make reasonable provision for the support of his family for the space of one year, or that either party has been guilty of habitual drunkenness for the space of one year, or been guilty of extreme cruelty, or been convicted of felony, or other infamous crime, it shall be lawful for the injured party to obtain a divorce and dissolution of such marriage contract, but no such divorce shall in anywise affect the legitimacy of the children of such marriage, except in case where the marriage shall be declared void on the ground of a prior marriage.

Approved February 16, 1881.

AN ACT

TO AMEND SECTION ELEVEN OF CHAPTER THIRTY OF THE GENERAL LAWS OF THE STATE OF COLORADO, ENTITLED "ELECTIONS."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section eleven of chapter thirty of the General Laws of the State of Colorado, entitled "elections" be and the same is hereby amended so as to read as follows: "The regular term of office of all state, district, county and precinct officers, and of the judges of the supreme court, shall commence on the second Tuesday of January next after their election, except as otherwise provided by law."

Term of office of state, district, county and precinct officers, and supreme court judges.

Approved February 12, 1881.

AN ACT

TO AMEND SECTION ONE OF CHAPTER THIRTY, OF THE GENERAL LAWS OF COLORADO, IN RELATION TO ELECTIONS, AND REPEALING ALL LAWS INCONSISTENT WITH THIS ACT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one of an act entitled an act regulating elections, and repealing all territorial acts upon the subject, being section nine hundred and twenty-six of the General Laws of Colorado, be, and the same is hereby amended, to read as follows: Section 1. Every male person over the age of twenty-one years, possessing

the following qualifications, shall be entitled to vote at all elections:

Qualifications.

First—He shall be a citizen of the United States, or, not being a citizen of the United States, he shall have declared his intention, according to law, to become such citizen, not less than four months before he offers to vote.

Second—He shall have resided in this state six months immediately preceding the election at which he offers to vote; in the county, ninety days, and in the ward or precinct, ten days; *provided*, that no person shall be denied the right to vote at any school district election, nor to hold any school district office on account of sex. That all acts or parts of acts inconsistent with this act, be, and the same are hereby repealed.

Proviso.

Repeal.

Approved February 18, 1881.

AN ACT

TO AMEND AN ACT RELATING TO THE COMPETENCY OF THE ACCUSED AS A WITNESS IN CRIMINAL CASES, APPROVED FEBRUARY 5, 1872.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section one of said act is hereby repealed, and the following shall stand in lieu thereof as section one:

Hereafter in all criminal cases tried in any court of this state, the accused, if he so desire, shall be sworn as a witness in the case, and the jury shall give his testimony such weight as they think it deserves; but in no case shall a neglect or refusal of the accused to testify be taken or considered any evidence of his guilt or innocence.

Approved February 8, 1881.

AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE PAYMENT OF SALARIES TO OFFICERS OF THE EXECUTIVE AND JUDICIAL DEPARTMENT [DEPARTMENTS] OF THE STATE OF COLORADO, APPROVED FEBRUARY 19 1877. ALSO TO AMEND AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE PAYMENT OF SALARIES TO OFFICERS OF THE EXECUTIVE AND JUDICIAL DEPARTMENT [DEPARTMENTS] OF THE STATE OF COLORADO, APPROVED FEBRUARY 9, 1879, AND TO REPEAL ALL LAWS INCONSISTENT WITH THIS ACT.

Be it enacted by the General Assembly of the State of Colorado:

Salaries of state officers, judges, etc.

SECTION 1. The Governor shall receive an annual salary of five thousand dollars and the further sum of fifteen hundred dollars for the payment of a private secretary. The Lieutenant Governor shall receive an annual salary of one thousand dollars. The Secretary of State shall receive an annual salary of three thousand dollars, and the further sum of twenty-five hundred dollars for the payment of clerks. The Auditor of State shall receive an annual salary of twenty-five hundred dollars. The State Treasurer shall receive an annual salary of three thousand dollars. The Superintendent of Public Instruction shall receive an annual salary of three thousand dollars. The Attorney-General shall receive an annual salary of two thousand dollars. The Judges of the Supreme and District courts shall each receive an annual salary of five thousand dollars. The District Attorneys shall each receive an annual salary of eight hundred dollars and all fees.

Repeal.

SEC. 2. All acts and parts of acts inconsistent herewith, are hereby repealed.

Approved February 18, 1881.

AN ACT

TO AUTHORIZE THE STATE TREASURER AND AUDITOR OF STATE TO APPOINT CLERKS OR DEPUTIES, AND TO PROVIDE FOR THE PAYMENT OF THE SALARIES THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

State treasurer may appoint deputy; salary.

SECTION 1. That the state treasurer be and he is hereby authorized to appoint a clerk or deputy, whose salary shall be twelve hundred (1,200) dollars per annum; said salary to be paid from the appropriation made for the payment of the salaries of the officers of the executive department.

State auditor may appoint deputy; salary.

SEC. 2. That the Auditor of State be and he is hereby authorized to appoint a clerk or deputy, whose salary shall be twelve hundred (1,200) dollars per annum; said salary to be paid from the appropriation made for the payment of the salaries of the officers of the executive department.

Emergency.

SEC. 3. Whereas, there is no law authorizing the State Treasurer or Auditor of State to employ any assistants, or for the payment for such services, and assistance now being needed, it is the opinion of the General Assembly that an emergency exists, and, therefore, this act shall take effect from and after its passage.

Approved February 12, 1881.

AN ACT

TO TRANSFER THE UNEXPENDED BALANCE REMAINING ON HAND IN THE STATE TREASURY, ON THE 30TH DAY OF NOVEMBER, 1880, TO THE CREDIT OF CERTAIN FUNDS, TO THE CREDIT OF THE GENERAL FUND.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the unexpended balances remaining on hand in the state treasury to the credit of the Colorado land and mineral association, the penitentiary labor account, the state fee account, the general laws account, the session laws account, and the code laws account, on the 30th day of November, 1880, shall be, and the same are hereby transferred to the general revenue fund.

SEC. 2. In the opinion of this General Assembly an emergency exists; therefore, this act shall be in force on and after its passage.

Approved February 12, 1881.

AN ACT

CONCERNING THE DUTIES OF THE STATE TREASURER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. It shall be the duty of the State Treasurer, on or before the fifth day of every month, to cause to be published in some daily newspaper, published in the capital of the state, a notice containing a list of the numbers of the state warrants, which he shall have funds sufficient to redeem, as provided by law, at the time of said publication.

State treasurer to publish list of warrants he has funds to redeem.

Governor to appoint committee to examine books and accounts of state treasurer.

SEC. 3. [Section 2.] The Governor shall upon the first day [of] April and October of each year appoint a committee of three competent persons to examine the books and accounts of the State Treasurer. Said committee shall make a report in writing, which shall be delivered to the Secretary of State to be filed in his office. The said committee shall each receive as compensation for their services the sum of five dollars per day for the time actually spent in said examination; and the auditor is hereby authorized to draw his warrant in favor of the persons performing such services, upon the certificate of the Governor setting forth that the labor has been performed.

Report of committee.

Compensation of committee.

Penalty for refusal, etc., of treasurer to comply herewith.

SEC. 5. [Section 3.] In case of neglect or refusal of the said treasurer to comply with the provisions of this act, he shall be deemed guilty of a misdemeanor, and liable to a fine of not more than one thousand dollars, nor less than fifty dollars, in the discretion of the court.

Governor to suspend treasurer, when.

SEC. 6. [Section 4.] And on the presentation of an indictment, charging the State Treasurer with such misdemeanor, it shall be the duty of the Governor to suspend him from the exercise of the duties of his office, and in case of acquittal, such suspension shall cease; but in case of conviction of such misdemeanor, his office shall be deemed to be vacant.

Repeal.

SEC. 7. [Section 5.] All acts and parts of acts inconsistent with this act are hereby repealed.

Approved February 18, 1881.

AN ACT

TO PROVIDE FOR THE APPOINTMENT OF A STATE ENGINEER, AND TO DEFINE HIS DUTIES AND REGULATE HIS PAY, AND FOR THE APPOINTMENT OF HIS ASSISTANTS, AND THE ESTABLISHMENT OF WATER DIVISIONS.

Be it enacted by the General Assembly of the State of Colorado:

Establishment of water districts.

SECTION 1. That for the better regulation of the distribution of water for irrigation, among the several ditches, canals, and reservoirs, into which such water may be lawfully taken, in times of scarcity thereof, the water districts now, or to be hereafter established by law, shall be constituted into water divisions, as follows:

Dist. No. 1.

SEC. 2. All water districts now, or hereafter to be formed, consisting of lands watered from the South Platte river and its tributaries, shall constitute water division No. 1, and be named the South Platte division.

Dist. No. 2.

SEC. 3. All water districts now, or hereafter to be formed, consisting of lands watered from the Arkansas river and its tributaries, shall constitute water division No. 2, and be named the Arkansas division.

Dist. No. 3.

SEC. 4. All water districts now, or hereafter to be formed, consisting of lands watered from the Rio Grande river and its tributaries, shall constitute water division No. 3, and be named the Rio Grande division.

How new districts may be formed.

SEC. 5. Other water divisions may be constituted, from time to time, of water districts, consisting of lands watered from other principal rivers and their tributaries, by act of the Governor, when it shall appear to him expedient so to do, upon petition of citizens interested.

State engineer; appointment, term.

SEC. 6. The Governor shall appoint a State Hydraulic Engineer, who shall hold his office for the term of two years or until his successor may be appointed and qualified.

Governor may remove.

The Governor may at any time upon good cause shown, remove said State Engineer. Said State Engineer

Supervision of over water companies.

shall have general supervision over the water companies of the different water districts in the state; he shall have his

Office of.

office at the state capitol, in an office to be provided for him by the Secretary of State, and be subject to his

Subject to direction of secretary of state; secretary to provide furniture, books, instruments, etc.

direction and control; who shall also furnish him with suitable furniture, postage, and such proper and necessary books and instruments as will best enable him to discharge

Salary.

the duties of his office. He shall be paid a salary of two thousand dollars per annum, payable quarterly by the State Treasurer, on warrants drawn by the State Auditor. No

Qualifications.

person shall be appointed as such Hydraulic Engineer, who is not known to have such theoretical knowledge, and practical skill and experience as shall fit him for the position.

Duties.

SEC. 7. Said State Engineer shall make, or cause to be made, careful measurements and calculations of the maximum and minimum flow in cubic feet per second, of water in each stream from which water shall be drawn for irrigation, as may be best for affording information for irrigating purposes; commencing with those streams most used for irrigation; also to collect facts and make report as to a system of reservoirs for the storage of water, their location, capacity and cost; and he shall keep proper and full records of his work, observations and calculations.

Oath and bond.

SEC. 8. Said State Engineer shall, before entering on the discharge of his duties, take and subscribe an oath before some officer authorized by law to administer oaths, to faithfully perform the duties of his office, and file with the Secretary of State said oath and his official bond, in the penal sum of two thousand dollars, with sureties, to be approved by the Secretary of State, and conditioned for the faithful discharge of the duties of his office, and for delivering to his successor, or other officer authorized to receive the same, all moneys, implements, books, and other property belonging to the state then in his hands, or under

his control, or with which he may be legally chargeable as such officer.

Assistants; employment of, how paid.

SEC. 9. Said State Engineer shall have power to employ assistants at an expense not to exceed one thousand dollars in any one year, who shall be paid out of any moneys appropriated for that purpose, on certificate of said State Engineer, showing the services rendered, and the amount due therefor, and on presentation of such certificate to the State Auditor by the person entitled thereto, he shall issue his warrant on the State Treasurer for the amount thereof, to be paid out of any appropriation as aforesaid, and not otherwise.

Report.

SEC. 10. Said State Engineer shall prepare and render to the Government [Governor], yearly, and oftener if required, full and true reports of his work, touching all the matters and duties devolving upon him, by virtue of his office, which report shall be delivered at the time when the reports of other state officers are required by law to be made, in order that they may be laid before the General Assembly at each regular session thereof.

Further duties.

SEC. 11. Said State Engineer, shall, on request of any party interested, on payment of his per diem, charges, and reasonable expenses, measure and ascertain the carrying capacity of any ditch, canal, or feeder, or any reservoir, hereafter constructed or enlarged, and give to the party or parties requiring his services an official certificate of the size and carrying capacity of such ditch, canal, or feeder, in cubic feet per second, as he shall find it to be at the time of measuring the same.

Owners of ditches, canals, etc., to erect measuring wier.

SEC. 12. For the more accurate and convenient measurement of any water appropriated pursuant to any judgment or decree rendered by any court establishing the claims of priority of any ditch, canal, or reservoir, the owners thereof shall construct and maintain, under the supervision of the State Engineer, a measuring wier or other device for measuring the flow, in cubic feet per second, the water at the head of such ditch, canal or

Engineer to complete and arrange tabular statement of capacity of wiers, and furnish copy to commissioners.

reservoir, or as near thereto as practicable. The State Engineer shall compute and arrange in tabular form the amount of water that will pass such wier or measuring device, in cubic feet per second, at the different stages thereof, and he shall furnish a copy of a statement thereof to any water commissioners having control of such ditch, canal or reservoir.

Approved March 5, 1881.

AN ACT

IN RELATION TO SURPLUS FUNDS IN THE STATE TREASURY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That all sums of money remaining in the hands of the State Treasurer, other than that set apart by law for a special fund, shall be by said treasurer carried to the general fund.

Approved February 4, 1881.

AN ACT

TO AMEND SECTION TEN OF AN ACT ENTITLED "AN ACT TO FIX AND REGULATE THE FEES CHARGEABLE BY COUNTY, PRECINCT AND OTHER OFFICERS," APPROVED MARCH 24, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section ten of an act to fix and regulate the fees chargeable by county, precinct and other

officers, approved March 24, 1877, be, and the same is hereby amended so as to read as follows:

That for the purpose of providing for and regulating the compensation of county and precinct and other officers, the several counties of this state shall be classified with reference to population and divided into three classes, as follows, namely:

Classification of counties.

The counties of Arapahoe, Lake and Boulder shall constitute the first class; the counties of Clear Creek, Las Animas, Gilpin, Jefferson, Weld, Pueblo, Fremont, El Paso, Bent, Conejos, Douglas, Larimer and Custer, shall constitute the second class; and the counties of Costilla, Park, Saguache, Grand, Elbert, La Plata, San Juan, Rio Grande, Chaffee, Hinsdale, Huerfano, Routt and Ouray shall constitute the third class.

Approved February 18, 1881.

AN ACT

TO LEGALIZE THE ACTION OF FENCE DISTRICTS IN ISSUING BONDS FOR THE FUNDING OF THEIR INTEBTEDNESS, UNDER THE PROVISIONS OF AN ACT ENTITLED "AN ACT TO ENABLE FENCE DISTRICTS TO FUND THEIR INDEBTEDNESS," APPROVED FEBRUARY 8, 1879, WHEN SUCH ISSUE WAS MADE PRIOR TO THE DAY UPON WHICH SAID ACT BECAME EFFECTIVE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the action of any fence district, or the commissioners thereof, in issuing bonds for the purpose of funding the indebtedness of said district in accordance with the provisions of an act entitled, "An act to enable

fence districts to fund their indebtedness," approved February 8, 1879, when such issue of bonds was made after the approval of said act, but prior to the day when said act became effective, be hereby legalized and declared to be of the same binding force and effect, as if said action had been taken after the day on which the said act had taken effect.

Approved February 23, 1881.

AN ACT

TO PROVIDE FOR THE APPOINTMENT OF A COMMISSION TO SELECT AND PURCHASE A PROPER SITE FOR A STATE FISH HATCHING HOUSE, AND TO ERECT SUITABLE BUILDINGS THEREON FOR SAID PURPOSES.

Be it enacted by the General Assembly of the State of Colorado:

Appointment of board to select, etc., location for hatching houses.

SECTION 1. It shall be the duty of the Governor, within thirty days after the passage of this act, to appoint a suitable person, resident of this state, who with the Governor and fish commissioner shall constitute a board, whose duty it shall be to select and purchase a suitable location for a state establishment for the breeding and propagation of the better class of food fishes, adapted to the waters of this state, and to erect thereon suitable buildings for said purpose at as early a date as possible.

Expenses of board.

SEC. 2. The members of said board shall receive the amount of such incidental expenses, as may be necessarily incurred in carrying out the provisions of this act, not exceeding two hundred and fifty dollars.

Appropriation.

SEC. 3. The sum of twenty-seven hundred and fifty dollars, or so much thereof as may be necessary, is hereby

appropriated for the purpose of defraying the expenses to be incurred under this act in the purchase of ground and erection of buildings, which said sum shall be paid by the State Treasurer upon the warrant of the Auditor of State, issued upon the certificate of said board.

Approved March 14, 1881.

AN ACT

TO ACT TO AMEND "AN ACT TO PROVIDE FOR THE PROTECTION, PRESERVATION AND PROPAGATION OF FISH, ETC.," APPROVED MARCH 10, 1877.

Be it enacted by the General Assembly of the State of Colorado:

Disposition of fines.

SECTION 1. That section seven of said act be amended so as to read as follows: Sec. 7. All fines recovered under the provisions of this act shall be paid, one-half to the person giving the information of the offense, and the other half shall be paid into the State Treasury, to be expended by the fish commissioner in the propagation and preservation of food fish in this state.

Appointment, duties, salary and expenses of commissioner.

SEC. 2. That section ten of said act be amended so as to read as follows: Sec. 10. It shall be the duty of the Governor immediately upon the taking effect of this act, and every second year thereafter, by and with the advice and consent of the senate, to appoint a person skilled in fish culture and the habits and nature of food fishes, to be state fish commissioner, and who shall hold his office for the term of two years. Said commissioner shall have supervision of all fish cultural matters of a public nature, and shall receive and provide for the proper care and distribution of such food fishes, or ova of the same, as shall come into the possession of the state. He shall

determine the necessity for fish ways, the location, form and capacity thereof, directing their construction and maintenance. He may obtain ova from such fish, at such places, and of such varieties as he may deem most suitable to the waters of this state, and have the same hatched at the state hatchery, or other proper places. He may also obtain the parent fish or young fry of desirable varieties that cannot be successfully propagated artificially, and shall distribute the same in a prudent and equitable manner throughout the different waters of the state. He shall furnish to any person, association or corporation owning any lake or reservoir, as private property, such stock of fish as they may desire for the purpose of stocking such lake or reservoir, at the actual cost thereof, the cost thereof to be determined by said commissioner. The fish commissioner shall appoint a superintendent of the state hatcheries who shall be skilled in fish culture, whose duty it shall be to take charge of the hatcheries during the hatching season, and report annually to the commissioner upon the practical results and success of the enterprise, at a salary, however, not to exceed one thousand dollars per annum; said report shall be embraced in the annual report of the commissioner to the Governor. Said commissioner shall receive a salary of five hundred dollars per annum and all expenses actually disbursed by him while necessarily engaged in the service of the state; which said sum so paid for his expenses shall not exceed the sum of five hundred dollars per annum. The commissioner shall have power to appoint deputy commissioners throughout the state and remove the same at his pleasure, who shall have full power and authority to enforce the fish laws of this state, and prosecute any violators of the same, but such deputy commissioner shall serve without compensation from the state; all accounts under this act are to be approved by the Governor.

Approved March 14, 1881.

AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITED AN ACT TO PROVIDE FOR THE PROTECTION, PRESERVATION AND PROPAGATION OF FISH, ETC., APPROVED FEBRUARY 7, 1879.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one of said act be and the same is hereby repealed, and the following shall stand in lieu thereof:

Taking and killing fish save by hook and line unlawful.

SEC. 2. [Sec. 1.] That it shall not be lawful for any person to kill, or take, or fish for any trout or other fish in any of the waters of this state, within two hundred yards of any fish-way or artificial or natural obstruction, nor to take or kill in any of the waters of this state, any speckled trout or food fish at any time by the use of any poisonous or deleterious or stupefying drug, or by the use of any explosive substance, or by the erection of any weir, dam, or other artificial obstruction, or by the use of any net, seine or device whatsoever, except by a hook and line. And it shall not be lawful for any person to empty, or allow the emptying of sawdust, into any of the waters of this state containing food fish, or to deposit the same within such distance that it may be carried into said waters by natural causes; *provided, however*, that it shall be lawful for the fish commissioner to take fish of any kind, at any time, and in any manner he may choose for the purpose of science, cultivation and dissemination, and he may permit other persons to take fish at any time and in any manner for the same purposes by giving to them written permits therefor.

Emptying sawdust into fish streams, unlawful.

Commissioner may take fish at any time, etc.

SEC. 2. That section two of said act be repealed, and in lieu thereof the following be inserted: SEC. 2. That section three, of chapter thirty-seven, of the General Laws

of Colorado, entitled "Fish," be stricken out, and in lieu thereof there be inserted the following words for section three of said chapter, to wit: Any person or persons, or the officers and servants of any company or corporation, maintaining or keeping up any dam, weir, or other artificial obstruction, in or upon any stream of water in this state, shall erect, keep up and maintain, at such dam, weir or other artificial obstruction, a sufficient sluice or fishway for the free passage of fish up and down any such stream; *provided, however*, that this section shall not be constructed to apply to any stream of water that contains no food fish, nor to any stream of water the whole volume of which is used for irrigating purposes.

Erection and maintenance of fishways.

SEC. 3. That section four of said act be and the same is hereby amended to read as follows: SEC. 4. That section five of chapter thirty-seven of the General Laws of Colorado, be and the same is hereby amended so as to read as follows, to wit: Sec. 5. Any person or persons, or officers or servants of any company or corporation, convicted of violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars, nor more than three hundred dollars; *provided, however*, that any person or persons convicted of using any poison, or deleterious or stupefying drug, or by the use of any explosive substance for the purpose of killing or taking any food fish in any of the waters of this state, shall, upon conviction thereof, be fined in a sum not less than one hundred nor more than three hundred dollars for each and every offense, or be imprisoned for not more than sixty days in the county jail, or be both fined and imprisoned as aforesaid.

Penalty for violation of this act.

Approved February 8, 1881.

AN ACT

TO AMEND AN ACT "ENTITLED AN ACT FOR THE PROTECTION OF GROWING CROPS." APPROVED FEBRUARY 8, A. D. 1870.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the justices of the peace of the counties of Costilla, Huerfano, and Las Animas, in their respective precincts, are authorized, and it is hereby made their duty, to notify and require the inhabitants of their respective precincts, by public notice posted in not less than three public places in their respective precincts, on or before the first day of May in each year, to keep in the care of herders all horses, mules, asses, neat cattle, hogs, sheep, and goats from the tenth [day] of May until the twentieth day of October. Counties where stock shall be herded from May to October.

SEC. 2. If any such stock as prescribed in the preceding section shall be found injuring the crops of any person or persons of the above named counties, the party injured may take in custody such animals, and make complaint before the justice of the peace of the precinct in which such damage shall have been committed; whereupon such justice shall proceed forthwith to appoint three disinterested appraisers, who shall appraise the damages caused, and report their decision to the justice; and the party or parties whose stock shall have been found injuring any crops, as aforesaid, shall be held responsible for any and all damage so committed, to be collected in the same manner as in other cases, together with all costs of proceedings; and the animal or animals so found injuring any crops may be taken and held as a security for the payment of such damages and costs. Proceedings in case of damage.

SEC. 3. The appraisers appointed under the provisions of the foregoing section shall be allowed the sum of Fee of appraisers.

twenty-five cents each, to be paid by the party whose animals shall have been found damaging.

Repeal.

SEC. 4. That all acts and parts of acts inconsistent with this act, be, and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 12, 1881.

AN ACT

IN REGARD TO THE INVESTMENT OF TRUST MONEYS OF INFANTS AND OTHERS.

Be it enacted by the General Assembly of the State of Colorado:

Guardians may invest moneys of wards, how.

SECTION 1. That it shall be lawful for guardians to invest the moneys of their wards in the bonds of the United States, or in the bonds or auditor's warrants of this state, at the market rates current at the time of such investment, and to lend the moneys of their wards upon pledge of such bonds or warrants: *Provided*, that every such investment or lending shall forthwith be reported by the guardian, to the county court, with the numbers and amount of all such bonds or warrants purchased or pledged, together with the price or prices paid for the bonds or warrants so purchased or taken as aforesaid; and no loan of money upon such security shall be made for a longer period than one year, nor unless the interest be made payable, at least as often as once in every six months; nor unless the bonds or warrants pledged as security shall exceed in value, at current rates, the amount lent by at least twenty-five per cent.; and, *provided, further*, that the guardian may, by order of the county court, to be made and entered of record in open court, make such loans upon the security or securities aforesaid for a longer period, not exceeding five years, and

Investment or lending to be reported to county court.

Conditions upon which loans may be made.

not exceeding in any case, the minority of the infant; the interest on such loans to be made payable at least once in each year.

Testamentary trustees, conservators of insane, etc., may invest moneys, how.

SEC. 2. Testamentary trustees, conservators of insane persons and others, having control of moneys which, by law or the testamentary instrument creating the trust, they are required to invest, may, unless prohibited by such testament or the instrument creating the trust, invest such moneys in such bonds or warrants, or lend the same upon pledge thereof, upon the same terms and conditions specified in the first section of this act.

Emergency.

SEC. 3. Inasmuch as there are large amounts of money belonging to infants which cannot be safely invested under the present state of the law, an emergency exists; therefore, this act shall take effect from and after its passage.

Approved February 12, 1881.

AN ACT

TO AMEND CHAPTER FORTY-SIX OF THE GENERAL LAWS ENTITLED "HOMESTEADS."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section two of chapter forty-six of the General Laws is hereby amended so as to read as follows: Sec. 2. To entitle any person to the benefit of this act, he shall cause the word "homestead" to be entered of record in the margin of his recorded title of the same, which marginal entry shall be signed by the owner making such entry and attested by the clerk and recorder of the county, in which the premises in question are situated, together with the date and time of day upon which such marginal entry is so made.

Approved February 12, 1881.

AN ACT

TO ESTABLISH A STATE INDUSTRIAL SCHOOL AND FOR THE MAINTENANCE AND GOVERNMENT OF THE SAME.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. There shall be established in this state an institution under the name and style of the "State Industrial School."

Board of control; number, how appointed, term of office, vacancies.

SEC. 2. The general supervision and government of said industrial school shall be vested in a board of control, to consist of three members, who shall be appointed by the Governor, by and with the advice and consent of the senate during the session of the General Assembly, the members of which board shall hold their offices for the respective terms of two, four and six years from the first day of March, A. D. 1881, and until their successors shall be appointed and qualified, said respective terms of office to be designated in their several appointments; and thereafter there shall be one of said board appointed every two years, whose term of office shall continue for six years, or until his successor is appointed and qualified; and whenever any vacancy shall occur in said board, by the death, resignation or otherwise, the Governor shall fill the same by appointment, and the appointee shall hold only for the unexpired term of the person whose place he is appointed to fill.

Board shall be a body corporate.

The members of said board of control shall constitute a body corporate under the name and style of the "board of control of the state industrial school," with the right of suing and being sued, and of making and using a common seal, and of altering it at pleasure. A majority of the board shall constitute a quorum for the transaction of any business lawful to be done by said board.

Report.

SEC. 3. The board of control on the tenth day of November preceding each meeting of the General Assembly,

shall make a report to the Superintendent of Public Instruction, which report, with that of the officers and instructors of the institution shall be transmitted to the General Assembly with the report of the said superintendent. Said report shall contain a detailed statement of their operations and of all expenditures made by them in behalf of said institution.

Expenses.

SEC. 4. The traveling and other actual expenses incurred by the members of said board in the discharge of their duties may be paid in the same manner as other lawful expenses of the institution, but no member of said board shall receive any compensation for his services as such.

Meetings.

SEC. 5. The board of control shall meet regularly at the industrial school, on the third Wednesday in March, June, September and December in each year, and at such other times and places as they shall deem advisable. At the regular meeting in March in each year they shall elect of their own body, a president and secretary, who shall hold their offices for one year, or until their successors shall be elected and qualified. The State Treasurer shall be *ex-officio* treasurer of the board: *Provided*, that the first meeting and organization of said board of control may be had at any time after this act shall take effect.

Officers.

Proviso.

Duties.

SEC. 6. It shall be the duty of the board of control, to prepare and carefully digest and mature a system of government for said industrial school, embracing such rules and regulations as may be deemed necessary for preserving order, for enforcing discipline, for imparting instruction, for preserving health, and generally, for the proper physical, intellectual and moral training of the youth committed to said school. And they may appoint a superintendent and such other officers, agents and servants as they may consider necessary to transact the business of said school, and may designate their duties and salaries.

Board may authorize one of their number to visit similar institutions.

SEC. 7. For the purpose of maturing said system of government and discipline, it shall be competent for said board to authorize one of their number to visit some

similar institution, now in operation, and of best repute, and, by a personal inspection and investigation, to acquire an insight into the principles and practical workings of the model system thus selected, for the information and benefit of said board; the expenses actually incurred in such visit and investigation to be paid in the same manner as other lawful expenses of the institution.

Expenses.

Appropriation.

SEC. 8. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty thousand dollars for the establishment and support of the state industrial school, for the two years commencing May 1, A. D. 1881, and ending April 30th, 1883, which shall be paid out of the state treasury as follows:

How money drawn.

The Auditor of State, upon the order of the president of the board of control, countersigned by the secretary, shall draw his warrant upon the State Treasurer against said fund in favor of the treasurer of said board. All moneys coming into the treasury of said board shall be paid out only upon orders of the president of said board, countersigned by the secretary thereof

Money in treasury of board, how paid out.

Board prohibited from incurring debt.

SEC. 9. The board of control is hereby prohibited from creating any debt against the industrial school, or in any manner encumbering the same, or from incurring any expense beyond its ability to pay from the appropriations made therefor.

Building; selection and conveyance.

SEC. 10. The old school of mines building and grounds at or near the city of Golden, in the county of Jefferson, are hereby selected as, and converted into an establishment and site for the state industrial school; and upon the taking effect of this act, or as soon thereafter as practicable, the trustees of the school of mines shall convey the same in fee simple for such purpose to the board of control of the state industrial school without charge therefor.

Further duties of board.

SEC. 11. As soon as practicable, after the said grounds and building shall have been conveyed to the board of

control of the state industrial school, as provided for in the next previous section, the said board of control shall prepare and adopt a plan for the grounds, for such alterations in and addition to said building, and for such other buildings and fixtures as they shall deem necessary for such institution; of such form, dimensions, style and finish as to not cost over the sum of five thousand dollars when completed.

Further duties of board.

SEC. 12. After having adopted such plan, the said board of control shall forthwith proceed to advertise for proposals for furnishing the materials and doing the work necessary to complete the same according to such plan, and to put the said institution in readiness, at an early period, for the reception and care of such youth as may be committed to said school under the provision [provisions] of this act; and upon the reception of such proposals, they may, in their discretion, make contracts with such bidders, as shall make proposals best conducive to the interests of the state, taking into the consideration the price, time of performance and responsibility of contractor, with such sureties as he may offer, which contracts, when executed, shall be deposited in the office of the Secretary of State.

Reception, etc., of persons committed.

SEC. 13. It shall be the duty of the board of control to receive, to the extent of the means placed at their disposal, and of the accommodations afforded by the buildings and grounds belonging to said school, all persons committed to their care and guardianship, under the provisions of this act, and to keep the same during their minority, or until discharged by law, or under the rules of said board.

Court or justice may sentence, who.

SEC. 14. When any boy under the age of sixteen years, and over the age of seven years, shall be convicted of any offense known to the laws of this state and punishable by fine or imprisonment, or both, except such as may be punishable by imprisonment for life, the court or justice, as the case may be, before whom such conviction shall be had, may, at its discretion, sentence such boy to the state industrial school, or to such punishment as is now, or may

hereafter be prescribed by law for the same offense. All commitments to the industrial school, of boys of whatever age when committed, shall be for a term not longer than during their minority, nor less than nine months, unless sooner discharged by the order of the board of control, as hereinafter provided; and whenever any boy shall be discharged therefrom, by the expiration of his term of commitment, or as reformed, or as having arrived at the age of twenty-one years, such discharge shall be a full and complete release from all penalties and disabilities which may have been created by such sentence.

Term of commitment.

Discharge.

Magistrate or justice may commit on complaint of parent, etc.

SEC. 15. Whenever the parent or guardian or next friend of a boy shall make complaint before any police magistrate or justice of the peace, that by reason of incorrigible or vicious conduct, such boy has rendered his control beyond the power of parent, guardian or next friend, and made it manifest that a regard for the morals and welfare of such boy requires that he should be placed under the guardianship of the state industrial school, if the complaint aforesaid be established by due proof, the said magistrate or justice shall commit such boy to the said school for such term as he shall deem proper, within the limits prescribed in the foregoing section.

Magistrate or justice may commit on complaint that parent, guardian, etc., is incapable or unwilling to care for vicious boy.

SEC. 16. When complaint, the facts of which are established by due proof, shall be made to a magistrate or justice, as aforesaid, that any boy between the ages of seven and sixteen years is a proper subject for the guardianship of said industrial school, in consequence of vagrancy, or incorrigibly vicious conduct, and that from the moral depravity or other insuperable obstacle on the part of the parent, guardian or next friend, in whose custody such boy may be, such parent, guardian or next friend is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious boy, such magistrate or justice, as the case may be, shall commit such boy to the state industrial school for such term as he shall deem proper, within the limits prescribed in a previous section of this act.

Police, constable or sheriff may arrest, who.

SEC. 17. The police in any city in this state, and the constable of any town or precinct, and the sheriff of any county, are empowered to arrest any and all boys between the ages of seven and sixteen years, habitually wandering or loitering about the streets or public places of the same, or anywhere beyond the proper control of parents or guardians, during the school term, and during the hours when school is in session. In case any arrest shall be made under the provisions of this act, by any such officer, such boy shall be taken before the police magistrate of the city, or any justice of the peace of the town or precinct where such arrest is made, and if it appear that such boy has no lawful occupation or business, or is not attending school, or is growing up in habits of idleness, vice and immorality, or is an habitual truant, such boy may be committed to the state industrial school, for a term of not more that three years, nor less than nine months.

Proceedings in case of arrest of boy.

Accused may appeal.

SEC. 18. Nothing in this act shall be construed to prevent an accused person from taking an appeal from the decision of any court, police magistrate or justice of the peace, under such forms as are now or may hereafter be prescribed by law.

Cause of commitment, etc., to be certified to Supt.

Any court, magistrate or justice, by whom any person is committed to the industrial school, under the provisions of this act, shall certify to the superintendent of said school, the cause of said commitment, embracing all important facts connected therewith, and the age of all persons so committed, as near as can be ascertained, and the age so certified, shall be held to be the correct age of such persons for the purposes of this act.

Parent or guardian may indenture boy or ward.

SEC. 19. Any parent may indenture his or her boy, or any guardian may indenture a male ward, to the state industrial school for such length of time as may be agreed upon by such parent or guardian, and the board of control of said school, on condition that such parent or guardian shall pay the expenses of such boy or ward so indentured as aforesaid, while at said school.

Conveyance of persons committed.

SEC. 20. It shall be the duty of the sheriff or any constable of the respective counties, or in case of their absence, of any suitable person appointed by the court for such purpose, to convey any boy committed under the provisions of this act, to the school aforesaid, and all magistrates and officers performing services under this act, shall be paid the same fees as are allowed for similar services in criminal cases; such fees to be paid by the county from which such boy was committed.

Fees of magistrate and officers.

Board to clothe, feed, instruct, govern, etc., boys committed to school.

SEC. 21. Each and every boy who shall be legally committed to said school, as provided in this act, shall be clothed, fed, disciplined, instructed, employed and governed, under the direction of the board of control of said school, until he either be reformed and discharged, or until he shall have arrived at the age of twenty-one years, and it shall be lawful for said board of control to place in the care of any resident of this state, who is the head of a family and of good moral character, any of the said boys of said school, on such conditions and with such stipulations as the board may establish: *Provided*, no boy shall be placed in the care of any person who shall be engaged in the sale of intoxicating drinks, or who is in the habit of getting drunk. The board of control shall have power, and it shall be their duty to return any boy to the authorities of the county or city from which he shall have been received, whom said board may deem to be an improper subject for their care and management, or who shall be found to be incorrigible, or whose continuance in the school they may deem prejudicial to the management or discipline thereof, or who ought in their judgment for any other cause to be returned from said school. In every such case it shall be the duty of said board of control to transmit to the court, magistrate, or justice by whom said boy was committed to said school a statement of the reasons of said return, and it shall be the duty of the authorities of the city or county to whom said boy shall [be] returned to produce said boy before the court, magistrate, or justice by whom said boy

Who board may give boy in care of.

Proviso.

Board may return incorrigible boy.

Board to send court, etc., statement of reason of return.

was committed, or his successor in office, as soon as the same can reasonably be done; and such court, magistrate or justice shall have power thereon to make such order, and have such proceeding as would have been legal in the first instance, and would have been made or had in the case if the boy had not been sent to the industrial school. Said board of control shall also be authorized, when, in their judgment, it may be deemed proper or expedient to give boys leave of absence in writing, with conditions therein expressed, for a limited time or during good behavior, and in case of misconduct or other satisfactory reasons, they may reclaim and return to the care of the school for such time as he was originally sentenced without other trial or commitment or process of law, any boy granted such leave of absence, and his further detention shall in no way be effected [affected] thereby, either to his prejudice or advantage. Said board of control shall also have power to return any boy to his parents or other guardians, when they shall have become bound in sufficient sureties for the good behavior and care of such boy.

Proceedings of court, magistrate, etc., on return of boy.

Board may give boys leave of absence; how conditioned.

Return of boy to parents.

SEC. 22. It shall be lawful for the board of control, whenever in their discretion they may deem any one of the boys detained in the said institution to have become so far reformed as to justify his discharge, to liberate such boy, or to bind him by articles of indenture for that purpose to be entered into, to any suitable person who will engage to instruct such boy in some proper art or trade, according to the terms of said indenture.

Board may liberate or bind out by indenture.

SEC. 23. Any person, other than parent or guardian, who will take and care for any boy, as above provided, for one year, having faithfully fulfilled all the conditions prescribed to the satisfaction of the board, if the board of control shall have so agreed, shall be entitled to receive from the funds of the industrial school, fifty dollars; at the end of two years, a like sum on like conditions: *Provided*, said boy shall be placed at school at least three months in each year; and any boy who is placed in the care of any

Compensation of person caring for boy from this school.

Proviso.

person as above provided, having remained with said person and faithfully performed the duties required of him by said board for said two years, and until he shall have arrived at the age of twenty-one years, shall be entitled to receive from the funds of said institution, one hundred dollars.

Provisions of this act applicable to girls.

SEC. 24. All the provisions of this act concerning boys shall be equally, [and] in like manner, applicable to girls, and girls shall be received and cared for by the board of control of the state industrial school, as boys are received and cared for, until, by reason of the large number of inmates in said school, it shall be, in the opinion of said board of control, dangerous to the discipline of said school, and harmful to the reformatory purpose thereof, which opinion shall be certified to the Governor of the state, by said board, with the reasons therefor, and if the Governor approve said opinion, the said board shall not thereafter receive girls into said institution.

No person to construct road through grounds without consent.

SEC. 25. No person or persons, corporation or body politic, shall be permitted to open, lay out [or] construct any road or highway, either public or private, under any pretense whatever, upon or through any ground owned or occupied by the said school without the consent of the board of control.

Religious instruction.

SEC. 26. Equal privileges shall be granted to clergymen of all religious denominations to impart religious instruction to the inmates of said industrial school, and every opportunity shall be allowed such clergymen to give to the inmates belonging to their respective denominations, such religious and moral instruction as said clergymen may desire, and the board of control shall prescribe reasonable times and places, not inconsistent with the proper management of said school, when and where such instruction may be given, and all such instruction shall be open to all who may choose to attend.

Penalty for escaping or aiding to escape.

SEC. 27. Every person who shall aid or abet any boy in escaping from the state industrial school, or who shall

knowingly harbor such boy, or aid in abducting him from persons to whose care and service he has been properly committed, shall be fined not less than fifty nor more than one hundred dollars, or imprisoned for not more than sixty days. And if any boy shall escape or absent himself without leave from said school, or from persons to whose care and service he has been properly committed, whenever said boy is reclaimed and returned to said school, the time of such unlawful absence shall be excluded in computing the time at which his sentence shall expire.

Approved February 12, 1881.

AN ACT

FOR AN ACT MAKING AN APPROPRIATION FOR THE PURPOSE [PURCHASE] OF ADDITIONAL LANDS AND THE CONSTRUCTION OF ADDITIONAL BUILDINGS FOR THE STATE INSANE ASYLUM AT PUEBLO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there shall be appropriated out of any moneys in the treasury not otherwise appropriated, the sum of sixty thousand dollars, to be expended in the purchase of additional lands and the construction of additional buildings for the use of the state insane asylum; *provided*, that the sum to be expended for such lands should [shall] not exceed five thousand dollars. Appropriation. Proviso.

SEC. 2. The purchase of additional land shall be made under the direction of the superintendent and commissioners of said asylum, subject to the approval of the Governor; *provided*, that the lands to be purchased shall not cost to exceed one hundred and fifty dollars per acre. Purchase of land, how made. Proviso.

Buildings, how constructed, etc.

SEC. 3. The buildings shall be constructed, completed and furnished under the supervision of the superintendent of said asylum, subject to the approval of the commissioners.

Plans, etc

SEC. 4. Suitable plans and specification shall be procured from a competent architect, by the commissioners, for the government of the superintendent in the construction of said buildings.

Emergency.

SEC. 5. There being great emergency for the use of said buildings, this act shall take effect and be in force from and after its passage.

Approved February 11, 1881.

AN ACT

TO MAKE FURTHER PROVISIONS FOR SETTLING THE PRIORITY OF RIGHTS TO THE USE OF WATER FOR IRRIGATION, IN THE DISTRICT AND SUPREME COURTS, AND FOR MAKING RECORD OF SUCH PRIORITIES, AND FOR PAYMENT OF COSTS AND EXPENSES INCIDENT THERETO.

Be it enacted by the General Assembly of the State of Colorado:

Persons or corporations owning or claiming interest in ditch, etc., shall file statement, when and where.

SECTION 1. In order that all parties may be protected in their lawful rights to the use of water for irrigation, every person, association or corporation owning or claiming any interest in any ditch, canal or reservoir, within any water district, shall, on or before the first day of June, A. D. 1881, file with the clerk of the district court having jurisdiction of priority of right to the use of water for irrigation in such water district, a statement of claim, under oath, entitled of the proper court, and in the matter of priorities of water rights in district number ———, as the case may be, which statement shall contain the name

or names, together with the post office address of the claimant or claimants claiming ownership, as aforesaid, of any such ditch, canal, or reservoir, the name thereof (if any), and, if without a name, the owner or owners shall choose and adopt a name, to be therein stated, by which such ditch, canal or reservoir shall thereafter be known, the description of such ditch, canal or reservoir as to location of head gate, general course of ditch, the name of the natural stream from which such ditch, canal or reservoir draws its supply of water, the length, width, depth and grade thereof, as near as may be, the time, fixing a day, month and year as the date of the appropriation of water by original construction, also by any enlargement or extension, if any such thereof may have been made, and the amount of water claimed by or under such construction, enlargement, or extension, and the present capacity of the ditch, canal, or feeder of reservoir, and also the number of acres of land lying under and being or proposed to be irrigated by water from such ditch, canal or reservoir. Said statement shall be signed by the proper party or parties. What statement shall contain.

SEC. 2. The Secretary of State, shall, without delay, after the passage of this act, cause a certified copy of the foregoing section, giving the date of the approval of this act to be published in one of the public newspapers published in such county in which part or portion of any water district is or shall be established by law at the time of such publication; and said section one shall be published as aforesaid, once in each and every week continuously in said paper until said first day of June, A. D. 1881, and in case, in the meantime any one of said papers shall cease to be published, then such publication shall be made in some other paper in same county, (if any), and on conclusion of such publication, such publisher of such paper, shall deliver to the Secretary of State his sworn certificate of publication in duplicate, showing that such publication has been made in his paper in compliance with the preceding section Secretary of state to publish above section, when and where.

Publisher to certify publication.

hereof, and stating the first and last day of such publication; and he shall thereupon be entitled to receive from the Secretary of State a certificate of the amount due him for such publication, on presentation of which to the Auditor of State, he shall draw his warrant for the amount in favor of the holder on the State Treasurer, who shall pay the same according to law.

Expense of publication, how paid.

Secretary of state to file certificate of publication with clerk dist court.

SEC. 3. The Secretary of State shall file one of said duplicate certificates of publication with the clerk of the district court having jurisdiction of priority of rights to use of water for irrigation in the proper water district, certifying officially that such publication therein mentioned was duly authorized by him, and said clerk shall file the same with the statement of claim provided for in section one hereof, and such certificate of such publisher or any additional certificate of same publisher to same fact in case of loss of the original, shall be proof of the proper publication of said section in the paper therein mentioned. Said Secretary of the State shall also certify to such clerk of the several district courts having jurisdiction of said priorities of right to use of water for irrigation throughout the state, the names of the newspapers, and of the county in which he caused such publication to be made, and that the duplicate certificate of publication of the publisher, as herein required, are [is] on file in his office, and said certificate shall be sufficient proof of the publication of said section one hereof, as by this act required.

Proof of publication.

Secretary of state to certify to clerk of district court name of paper, etc.

Person or corporations may petition, etc., district court to adjudicate priority of rights.

SEC. 4. When, at any time after the first day of June, A. D. 1881, any one or more persons, associations or corporations, interested as owners of any ditch, canal, or reservoir in any water district shall present to the district court of any county having jurisdiction of priority of rights to the use of water for irrigation in such water district according to the provisions of an act, entitled an act to regulate the use of water for irrigation and providing for settling the priority of rights thereto, and for payment of the expenses thereof, and for payment of all costs and

expenses incident to said regulation of use, or to the judge thereof in vacation, a motion, petition, or application in writing, moving or praying said court to proceed to an adjudication of the priorities of rights to use of water for irrigation between the several ditches, canals and reservoirs in such district, the court, or judge thereof in vacation, shall, without unnecessary delay, in case he shall deem it practicable to proceed in open court, as prayed for, by an order to be entered of record upon such motion, petition or application, appoint a day, in some regular or special term of said court, for commencing to hear and take evidence in such adjudication, at which time it shall be the duty of the court to proceed to hear all evidence which may be offered by or on behalf of any person, association or corporation, interested in any ditch, canal or reservoir, in such district, either as owner or consumer of water therefrom, in support of or against any claim, or claims, of priority of appropriation of water made by means of any ditch, canal or reservoir, or by any enlargment or extension thereof in such district, and consider all such evidence, together with any and all evidence, if any, which may have been heretofore offered and taken in such district in the same matter by any referee heretofore appointed under the provisions of said act above herein mentioned; and also the arguments of parties or their counsel, and shall ascertain and find from such evidence, as near as may be, the date of the commencement of such ditch, canal or reservoir, together with the original size and carrying capacity thereof as originally constructed, the time of the commencement of each enlargment or extension thereof, if any, with the increased capacity thereby occasioned, the time spent, severally, in such construction and enlargement, or extension, and re-enlargement, if any, the diligence with which the work was in each case prosecuted, the nature of the work as to difficulty of construction, and all such other facts as may tend to show the compliance with the law, in acquiring the priority of

Court or judge to appoint day to commence to take and hear evidence.

right claimed for each such ditch, canal, or reservoir, and determine the matters put in evidence, and make and cause to be entered a decree determining and establishing the several priorities of right, by appropriation of water, of the several ditches, canals and reservoir [reservoirs] in such water district, concerning which testimony shall have been offered, each according to the time of its said construction and enlargement, or enlargements or extensions, with the amount of water which shall be held to have been appropriated by such construction and enlargements, or extensions, describing such amount by cubic feet per second of time, if the evidence shall show sufficient data to ascertain such cubic feet, and if not, by width, depth and grade and such other description as will most certainly and conveniently show the amount of water intended as the capacity of such ditch, canal or reservoir, in such decree. Said court shall further order that each and every party interested or claiming any such ditch, canal, or reservoir, shall receive from the clerk, on payment of a reasonable fee therefor, to be fixed by the court, a certificate under seal of the court showing the date or dates and amount or amounts of appropriations adjudged in favor of such ditch, canal, or reservoir, under and by virtue of the construction, extension and enlargements thereof, severally; also specifying the number of said ditch and of each priority to which the same may be entitled by reason of such construction, extension and enlargements.

Decree determining priority, what to show.

Party interested may obtain copy of decree.

SEC. 5. The holder of such certificate shall exhibit the same to the water commissioner of the district when he commences the exercise of his duties, and such water commissioner shall keep a book in which shall be entered a brief statement of the contents of such certificate, and which shall be delivered to his successor, and said certificate, or statement thereof in his book, shall be the warrant of authority to said water commissioner for regulating the flow of water in relation to such ditch, canal or reservoir. Said certificate shall be recorded, at the same rates of

Water commissioner to keep record of decrees and same to be authority for distribution of water.

Decree to be recorded by county clerk.

charges as in cases of deeds of conveyance, in the records of each county into which the ditch, canal or reservoir, to which such certificate relates, shall extend; and said certificate, or said record thereof, or a duly certified copy of such record, shall be *prima facie* evidence of so much of said decree as shall be recited therein, in any suit or proceeding in which the same may be relevant.

Record or certified copy evidence in suit.

SEC. 6. Notice shall be given by the clerk of said court, of the time so appointed, by publishing the same in one public newspaper in such county into which such water district may extend; which notice shall be so published in such paper once in each week until four successive weekly publications shall have been made, the last of which shall be on a day previous to the day appointed as aforesaid. Said notice shall contain a copy of said order, and shall notify all persons, associations and corporations interested as owners in any ditch, canal or reservoir in such water district, to appear at said court at the time so appointed and file a statement of claim under oath, in case no statement has been before filed by him, her or them, showing the ditch, canal or reservoir, or two or more such, in which he, she or they claim an interest, together with the names of all the owners thereof, which statement may be made by any one of the owners of such ditch, canal or reservoir for and in behalf of all; and also that all persons interested as owners or consumers may then and there present his, her or their proofs for or against any priority of right of water by appropriation sought to be shown by any party by or through any such ditch, canal or reservoir, (either as owner or consumer of water drawn therefrom.) Ten printed copies of said notice shall also be posted in ten public places in such water district, not less than twenty days before the day so appointed, which copies shall be so posted by the party or parties moving the adjudication.

Publication of notice.

What notice to contain.

Notices to be posted in ten public places in water district.

SEC. 7. Proof of the proper publication of said notice or notices in said public papers shall consist in such case of the sworn certificate of the publisher of such newspaper,

Proof of publication.

showing the publication to have been made in accordance with the provisions of section three of this act, which certificates shall be procured by the party or parties moving the adjudication, at his or their expense, and on said certificate being filed, the clerk shall enter the amount of the printer's fee therefor as costs advanced by the party procuring the same, which sum shall be counted to his, her or their credit, in distribution of costs. Proof of the posting of said printed copies shall be made by the affidavit of some credible person, certified to be such by the clerk, or other officer administering the oath, showing when, where, and how said copies were posted.

Proof of posting.

Service of notice, how made.

SEC. 8. The party or parties moving such adjudication shall cause a printed or written copy of the notice aforesaid, published as aforesaid, to be served on every person, association, or corporation shown by the statement of claim on file, as provided in section one hereof, which service shall be made within ten days from the time of the first publication by the clerk, by any credible person, certified by said clerk, or referee to be such, by delivering such copy as aforesaid to the person to be served, if such person, by due diligence, can be found in the county of his residence. If such person can not be found, as aforesaid, then, by leaving such copy at his or her usual place of residence, if he, or she, have such residence, in charge of some person of the age of fourteen years or over, there residing; and on any corporation, by delivering the copy to the president, or vice-president, or secretary, or treasurer thereof, or the manager, or superintendent in charge of their ditch, canal, or reservoir, or authorized agent or attorney, or by leaving such copy at the office or usual place of business of such corporation, and the proof of such service shall be made by affidavit of the person or persons serving said copies, showing when and how such service has been made on such party. In case of parties not served in any manner as aforesaid, the clerk shall deposit in the post office, duly enclosed in an envelope with

the proper postage stamp thereon, a copy directed to the address of such party, shown in the statement of claim aforesaid, filed by him or her under section one hereof.

Court to number ditches, canals, etc., how.

SEC. 9. The court in making such decree, as aforesaid, shall number the several ditches and canals in the water district, concerning which adjudication is made, in consecutive order, according to priority of appropriation of water thereby made by the original construction thereof, as near as may be, having reference to the date of each decree as rendered, and shall also number the reservoirs in like manner, separately from ditches and canals, and shall further number each several appropriation of water consecutively, beginning with the oldest appropriation, without respect to the ditches or reservoirs by means of which such appropriations were made; whether such appropriation shall have been made by means of construction, extension or enlargement, which number of each ditch, canal or reservoir, together with the number or numbers of any appropriations of water held to have been made by means of the construction, extension or enlargement thereof, shall be incorporated in said decree and certificate of the clerk, to be issued to the claimants, as provided in section one of this act, so as to show the order in priority of such ditch or canal, and of such reservoir, and also of such successive appropriation of water pertaining thereto, for the information of the water commissioner of the district in distributing water; such numbering to be as near as may be having reference to date of decrees as rendered.

Number to be incorporated in decree.

Judge may appoint referee.

SEC. 10. If for any cause the judge of said court shall deem it impracticable or inexpedient to proceed to hear such evidence in open court, he shall, instead of the order mentioned in section four of this act, make and cause to be entered of record an order appointing some discreet person, properly qualified, a referee of said court, to whom shall be referred the statement of claim aforesaid on file in said matter, the matter of taking evidence and reporting the same, making an abstract and findings upon the same,

and preparing a decree in said adjudication; and also in case of any water district in which a referee has been heretofore appointed, and evidence taken by him under the provisions of the act, the title of which is recited in section four of this act; such evidence so already taken, together with abstract thereof, and report of the referee who took the same, shall be also referred to said referee, to be appointed as aforesaid, and he shall proceed with his duties as hereinafter provided, first taking an oath [of] office, such as is required to be taken by referees in other cases under the provisions of the code of civil procedure.

Referee to publish notice; what notice to contain.

SEC. 11. Said referee shall prepare and publish a notice containing a copy of the order appointing him, in which notice he shall appoint a time or times, and place or places, suitable and convenient for the claimants in such water district, at which he will attend for the purpose of hearing and taking evidence touching the priority of right of the several ditches, canals and reservoirs in said district, and notifying all persons, associations and corporations interested as owners or consumers of waters [water], to attend by themselves, their agents or attorneys, at the times and places appointed in said notice, and notifying such owners to then and there file a statement of claim, in case such statement has not been already filed under the provisions of section one hereof, such as mentioned in section six hereof, and present their proofs touching any priority of right claimed by them for any ditch, canal or reservoir in said district; which notice shall be published in the same manner and times, and in all respects according to the provisions for publication of the newspaper notices mentioned in section six of this act, and proof of such publication shall be made in same manner as is provided in section seven of this act; and he shall also post ten or more printed copies of such notice in ten or more public places in said district, which copies shall be so posted at least twenty days before the time of commencing to take said evidence.

Referee to post ten copies of notice.

Proof of posting.

SEC. 12. Proof of the posting of said copies shall be made by the affidavit of said referee, or other person certified by him to be a credible witness, which shall show when, where and how the said copies were posted, and shall be filed by him with his report.

Duty of referee.

All persons interested may attend before referee and give evidence.

SEC. 13. Said referee shall attend at the times and places mentioned in his said notice for the purpose therein mentioned; and all persons, associations, choosing to do so, and being interested as owners of, or consumers of water from any ditch, canal or reservoir in said district, and may also attend by themselves, their agents, or attorneys, before said referee at some one or more of said times and places so appointed, and shall have right to offer any and all evidence they may think advisable for their interests in the matter to be adjudicated, as well in districts in which evidence has been heretofore taken as in other districts. All such evidence as has been heretofore taken, if any, in such district, shall be kept present by said referee, subject to inspection by any party desiring to examine the same for purposes of the investigation.

Evidence to be kept subject to inspection.

Duties of referee.

SEC. 14. Said referee shall have power to administer oaths to all witnesses, and to issue subpœnas for witnesses, and subpœnas *duces tecum*, which subpœnas may be served by any party, or constable, or sheriff, or deputy sheriff, and may require witnesses to appear at any of the places appointed by said referee for taking evidence. He shall permit all witnesses to be examined by the parties calling them respectively and to be cross-examined by any party interested, and he shall take all testimony in writing and note all objections offered to any part of the testimony taken, with the cause assigned for the objection, and shall proceed in all other respects as in case of taking depositions. He shall certify all books and papers offered by any one in his own behalf, and preserve them with the testimony offered concerning the same, and in case of books and papers offered in evidence, which shall not be under the control of the party desiring the evidence for

which such books may be offered, said referee shall make a true copy of the parts demanded and certify the same, and preserve the same, together with the evidence offered concerning the same and concerning said books and papers, as part of the evidence in the matter.

Person refusing to produce books or papers barred from benefit of testimony.

SEC. 15. No person, association, or corporation, wilfully refusing to produce any book or paper, if in his or their power to do so, when rightfully demanded for examination and copying, shall be allowed the benefit of any testimony or proofs in his, her, or their behalf, in making final adjudication, if the court shall be satisfied, from all the evidence shown concerning such refusal, that the same was wilful.

Examination of witnesses by referee.

SEC. 16. Said referee shall also examine all witnesses to his own satisfaction, touching any point involved in the matter in question, and shall ascertain, as far as possible, the date of the commencement of each ditch, canal, or reservoir, with the original size and carrying capacity thereof; the time of the commencement of each enlargement thereof, with the increased carrying capacity thereby occasioned; the length of time spent in such construction or enlargement, the diligence with which the work was prosecuted, the nature of the work as to difficulty of construction, and all such other facts as may tend to show compliance with the law in acquiring the priority of right claimed for such ditch, canal, or reservoir; and upon all the facts so obtained shall be determined the relative priorities among the several ditches, canals, and reservoirs, the volume or amount of water lawfully appropriated by each, as well as by means of the construction, as by the enlargements thereof, and the time when each such several appropriations took effect.

Penalty for disturbance of proceedings before referee.

SEC. 17. Every person present before said referee at any time when he shall be engaged in hearing testimony, who shall wilfully disturb the proceedings; and every person who shall wilfully refuse or neglect to obey any subpœna issued by said referee, when his lawful fees shall

be tendered him for his attendance before the referee, shall be guilty of contempt of the court appointing such referee, and on complaint, under oath of the referee or other person, before the said district court, or judge thereof in vacation, may be brought before the court or judge and dealt with accordingly.

Fees of witnesses.

SEC. 18. Every witness who shall attend before said referee under subpœna by request of any party shall be entitled to the same fees and mileage as witnesses before the district court in the county in which he shall so attend, and shall be paid by the party requiring his testimony.

Referee may adjourn taking of testimony.

SEC. 19. The said referee shall take all the testimony offered, and for that purpose shall give reasonable opportunity to all parties to be heard, and may at any place, when the time limited thereat shall expire, adjourn the further taking of testimony then proposed or desired to be offered to the next place in order, according to his said published appointments, and at the last place may continue until all testimony shall be taken, or make further appointments at any former place or places as may seem best and most convenient for all parties, giving reasonable notice thereof.

Duties of referee upon closing testimony.

SEC. 20. Said referee, upon closing the testimony, shall proceed to carefully examine the same, together with all testimony and proofs which may have been heretofore taken by any former referee in the same district, if any such shall have been taken, under the provisions of said act, the title of which is recited in section four of this act; he shall make an abstract of all the testimony and proofs in his possession concerning each ditch, canal and reservoir separately, and shall number each ditch and canal in order, and likewise each reservoir, each class consecutively, and also number the several appropriations of water shown by the evidence, all in manner and form as provided in section nine hereof, and shall make a separate finding of all the facts connected with each ditch, canal and reservoir, touching which evidence shall have been offered; and he shall prepare a draft of a decree in accordance with his said

findings, in substance the same as the decree mentioned in section four of this act, and conformable also to the provisions of section nine hereof, so far as the same are applicable; which decree, so prepared by him, shall be returned with his report to the court, and he shall file his report with said evidence, abstract and findings, and said decree, with the clerk of the court, and inform the judge of so doing, without delay.

Duty of court or judge upon filing of report of referee.

SEC. 21. Upon the filing of said report the court, or judge thereof in vacation, shall cause an order to be entered setting some day in a regular or special term of said court as soon as practicable, when the court will proceed to hear and determine the report; at which time any party interested may appear by himself or counsel and move exceptions to any matter in the findings or decree made by said referee; and after hearing the same the court shall, if the decree reported be approved, cause the same to be entered of record; or otherwise such modifications thereof or other decree as shall be found just and conformable to the evidence and the true intent of this act, and to so much of any and all former laws of the state as shall be adjudged consistent herewith.

Claim of priority of person failing to offer evidence not to be regarded by commissioner, when.

SEC. 22. No claim of priority of any person, association or corporation, on account of any ditch, canal or reservoir, as to which he, or she, or they shall have failed or refused to offer evidence under any adjudication herein provided for, or heretofore provided for by said act, the title of which is recited in section four hereof, shall be regarded by any water commissioner in distributing water in times of scarcity thereof, until such time as such party shall have by application to the court having jurisdiction, obtained leave and made proof of the priority of right to which such ditch, canal or reservoir shall be justly entitled, which leave shall be granted in all cases upon terms as to notice to other parties interested, and on payment of all costs, and upon affidavits or petition sworn to, showing the rights claimed and the ditches, canals and reservoirs, with

Terms upon which person failing to offer evidence at time of adjudication, may offer proof of priority.

the names of the owners thereof against which such priority is claimed, nor until a decree adjudging such priority to such ditch, canal or reservoir has been entered, and certificate, such as mentioned in section four hereof, shall have been issued to claimant and presented to the water commissioner.

Neglect or oppression of referee.

SEC. 23. Every party interested shall have the right to complain to the court of any act of wilful neglect or oppression on the part of the said referee in exercising his powers under this act, whereby such party shall have been aggrieved, either by refusal of said referee to hear or take evidence offered, or by preventing reasonable opportunity to offer such evidence; and the court may order such proceedings in the premises as will give redress of the grievance, at the cost of said referee, if he appear wilfully in fault; otherwise, in case of accident or mistake, costs shall be awarded as to the court shall seem just.

Court or judge may make necessary orders for carrying out intent of act.

SEC. 24. The district court, or judge thereof in vacation, shall have power to make all orders and rules consistent with this act which may be found necessary and expedient, from time to time during the progress of the case, for carrying out the intent of this act, and of all parts consistent therewith of the said act, the title of which is recited in section four thereof; as well touching the proceedings in court as of the acts and doings of said referee, for the purpose of securing to any party aggrieved by the acts of said referee or any proceeding of the court, opportunity for redress; and this act shall be construed liberally in all courts, in favor of securing to all persons interested, the just determination and protection of their rights.

No evidence offered before referee until statement of claim filed.

SEC. 25. No persons, association, or corporation, representing any ditch, canal or reservoir, shall be permitted to give or offer any evidence before said referee, until he, she or they shall have filed a statement of claim in substance the same in all respects as is required to be filed under the provisions of section one hereof.

Review.

SEC. 26. The district court or judge thereof, in vacation, shall have power to order, for good cause shown, and upon terms just to all parties, and in such manner as may seem meet, a re-argument or review, with or without additional evidence, of any decree made under the provisions of this act, whenever said court or judge shall find from the cause shown for that purpose by any party or parties feeling aggrieved, that the ends of justice will be thereby promoted; but no such review or re-argument shall be ordered unless applied for by petition or otherwise within two years from the time of entering the decree complained of.

Appeal.

SEC. 27. Any party or parties representing any ditch, canal, or reservoir, or any number of parties representing two or more ditches, canals, or reservoirs, which are affected in common with each other by any portion of such decree, by which he or she or they may feel aggrieved, may have an appeal from said district court to the supreme court, and in such case the party or parties joining, desiring an appeal, shall be the appellants, and the parties representing any one or more ditches, canals or reservoirs, affecting in common adversely to the interests of appellants, shall be the appellees. The party or parties joining in such appeal shall file a statement in writing, verified by affidavit properly entitled in such cause, in the district court, which statement shall show that the appellants claim a valuable interest in the ditch, canal or reservoir, or two or more of such, which are affected in common with each other by some portion of said decree, also stating the name or names, or otherwise the description of the same, and the name or names, or otherwise the description of any one or more other ditches, canals [or] reservoirs, which by said decree derive undue advantage in respect of priority as against that or those represented by appellants; and also setting forth the name or names of the party or parties claiming such other one or more ditches, canals or reservoirs, affected in common by said decree adversely to the interest of appellant or appel-

Party appealing to file verified statement; what statement shall show.

lants, and praying that an appeal be allowed against such other parties as appellees. If the court or judge in vacation, on examination, find such statement in accordance with the statements of claim filed by the parties named as appellees, mentioned in section one of this act, he shall approve the same and make an order to be prepared and presented by the appellants allowing the appeal and showing the name or names of the appellants and appellees, with the name or names or description of the one or more ditches, canals or reservoirs, claimed by the party or parties appellant and appellee, as shown by their several statements of claim filed as aforesaid, before the taking of testimony and fix the amount of the appeal bond; which bond shall be executed by one or more of appellants, as principal or principals, and by sufficient securities and approved by the court or judge in vacation, and shall be conditioned for the payment of all costs which may be awarded against the appellants or any of them in the supreme court.

Court or judge shall approve statement and allow appeal, when.

Appeal bond.

SEC. 28. The order last aforesaid shall be entered of record, and the appellant or appellants shall cause a certified copy thereof to be served on each of the appellees, by delivering the same to him or her, if he or she may be found, or otherwise serving the same in manner the same as may be at the time provided for serving summons from the district court by the laws then in force, and shall also cause the said order to be published in the same manner as the notices required to be published by the referee mentioned in section eleven of this act, and proof of the publication in any newspaper shall be the same as in case of said referee's notice, and proof of the posting of the ten printed copies in the district shall be by affidavit of the party posting the same, with the certificate of the clerk of the district court appealed from, that the affiant is a known and credible person.

Service of copy of order for appeal, how made.

SEC. 29. The appellant or appellants shall file the transcript of record of the district court with the clerk of the supreme court at any time within six months after the

Appellants to file transcript of record with clerk supreme court, when.

appeal shall be allowed as aforesaid. Only so much of the decree appealed from, and so much of the evidence as shall affect the appropriations of water claimed by means of the construction or enlargement or re-enlargement of the several ditches, canals and reservoirs mentioned in the order allowing the appeal, need be copied into the bill of exceptions.

Costs, how awarded.

SEC. 30. The supreme court on dismissal of such appeal, or on affirming or reversing the parts of the decree appealed from, in whole or in part, shall award costs, as in its discretion shall be found and held to be equitable.

Supreme court to make decree.

SEC. 31. The supreme court, in all cases in which judgment is rendered, and any part of the decree appealed from is reversed, and in which it may be practicable, shall make such decree in the matters involved in the appeal as should have been made by the district court, or direct in what manner the decree of that court shall be amended.

Proof of service and publication of order, when made.

SEC. 32. The said proof of the service and publication of said order allowing the appeal shall be filed with the clerk of the supreme court within sixty days after the making of said order, and if not so filed, the supreme court shall, on motion of the appellee or any of the appellees, at any time after such default in filing said proof, and before the said proof shall be filed, dismiss such appeal, and if the transcript of record be not filed within the time limited by section twenty-nine of this act, such appeal shall, on motion, be dismissed. After the filing of the record and proof of service aforesaid, the cause on appeal shall be proceeded with as the rules of the supreme court, or such special rules as said court may make in such cases, and their order from time to time thereunder may require. Said court shall have power to make any and all such rules concerning such appeals as may be necessary and expedient in furtherance of this act, as well as to preparation of the case for submission as to supplying deficiencies of record, if any, and for avoiding unnecessary costs and delay.

Dismissal of appeal upon failure to file proof.

Court may make rules concerning appeals.

In case of death, etc., of referee, court or judge shall appoint other person to act.

SEC. 33. The district court, or judge thereof in vacation, in case of the death, resignation, illness, absence or other disability of the referee hereby provided for, or for any misconduct in him, or other good cause to such judge appearing, shall appoint such other properly qualified person in his stead as he shall deem proper, who shall proceed without delay to perform all the duties of his office, as herein pointed out, which shall remain unperformed by his predecessor in office.

Nothing herein to bar person, corporation, etc., from maintaining suit, hitherto allowed.

SEC. 34. Nothing in this act or in any decree rendered under the provisions thereof, shall prevent any person, association or corporation from bringing and maintaining any suit or action whatsoever hitherto allowed in any court having jurisdiction, to determine any claim of priority of right to water, by appropriation thereof, for irrigation or other purposes, at any time within four years after the rendering of a final decree under this act in the water district in which such rights may be claimed. Save that no writ of injunction shall issue in any case restraining the use of water for irrigation in any water district wherein such final decree shall have been rendered, which shall effect [affect] the distribution or use of water in any manner adversely to the rights determined and established by and under such decree, but injunctions may issue to restrain the use of any water in such district not affected by such decree, and restrain violations of any right thereby established, and the water commissioner of every district where such decree shall have been rendered, shall continue to distribute water according to the rights of priority determined by such decree, notwithstanding any suits concerning water rights in such district, until in any suit between parties the priorities between them may be otherwise determined, and such water commissioner have official notice by order of the court or judge determining such priorities, which notice shall be in such form and so given as the said judge shall order.

Injunctions.

Claims barred after four years after final decree.

SEC. 35. After the lapse of four years from the time of rendering a final decree, in any water district, all parties whose interests are thereby affected shall be deemed and held to have acquiesced in the same, except in case of suits before them brought, and thereafter all persons shall be forever barred from setting up any claim to priority of rights to water for irrigation in such water district adverse or contrary to the effect of such decree.

Pay of referee.

SEC. 36. The referee appointed [as provided] in this act shall be paid the sum of six dollars per day while engaged in discharging his duties as herein provided, and also his reasonable and necessary expenses and mileage at the rate of ten cents for each mile actually and necessarily traveled by him in going and coming in the discharge of his duties as such referee, which said *per diem* allowance, expenses and mileage shall be paid out of the treasury of the county in which such water district shall lie, if it be contained in one county, and if such water district shall extend into two or more counties, then in equal parts thereof, shall be paid out of the treasury of such county into which such district shall extend. He shall keep a just and true account of his services, expenses and mileage and present the same from time to time to the district court, or judge in vacation, verifying the same by oath, and the judge, if he find the same correct and just, shall certify his approval thereof thereon, and the same shall thereupon be allowed by the board of county commissioners of the county in which said water district shall lie, but if said [water district] extend into two or more counties he shall receive from the clerk of the district court separate certificates, under seal of the court, showing the amount due him from each county, upon which certificate the board of county commissioners of the respective counties shall allow the same on presentation thereof.

How paid.

Repeal.

SEC. 37. All laws and parts of laws heretofore in existence, inconsistent with the provisions of this act, shall be, and the same are hereby repealed.

SEC. 38. It appearing to the General Assembly that on account of the near approach of the season for irrigation and the unsettled condition of water rights, an emergency exists requiring the immediate taking effect of this act, it is further enacted, two-thirds of all the members elected to such house concurring herein, that this act shall take effect from and after its passage. Emergency.

Approved February 23, 1881.

AN ACT

TO PROVIDE FOR THE EXTENSION OF THE RIGHT OF WAY FOR DITCHES, CANALS AND FEEDER [FEEDERS] OF RESERVOIRS IN CERTAIN CASES, AND REQUIRING REGISTRATION OF ALL SUCH HEREAFTER MADE OR ENLARGED.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In case the channel of any natural stream shall become so cut out, lowered, turned aside or otherwise changed, from any cause, as to prevent any ditch, canal or feeder of any reservoir from receiving the proper inflow of water to which it may be entitled from such natural stream, the owner or owners of such ditch, canal or feeder shall have the right to extend the head of such ditch, canal or feeder to such distance up the stream which supplies the same as may be necessary for securing a sufficient flow of water into the same, and for that purpose shall have the same right to maintain proceedings for condemnation of right of way for such extension as in case of constructing a new ditch, and the priority of right to take water from such stream, through such ditch, canal or feeder as to any such ditch, canal or feeder shall remain unaffected in any

Ditch owners may extend head of ditch, when.

Condemnation of right of way for extension.

Proviso.

respect by reason of such extension; *provided, however*, that no such extension shall interfere with the complete use or enjoyment of any other ditch, canal or feeder.

Owners to file statement of name, location, etc., of ditch with county clerk.

SEC. 2. Every person, association or corporation hereafter constructing or enlarging any ditch, canal or feeder for any reservoir, for irrigation, and taking water directly from any natural stream, and of a carrying capacity of one cubic foot per second of time as so constructed or enlarged, shall within ninety days after the commencement of such construction or enlargement, file and cause to be recorded in the office of the county clerk of the county in which such ditch, canal or feeder may be situated, or if such canal, ditch or feeder be situated in any water district, in the office of the county clerk of such county into which such water district may extend, a sworn statement in writing, showing the name of such ditch, canal, or of the reservoir supplied by such feeder, the point at which the head gate thereof is situated, (if it be a new construction) the size of the ditch, canal or feeder, in width and depth, and the carrying capacity thereof in cubic feet per second, the description of the line thereof, and the time when the work was commenced, and the name or names of the owner or owners thereof, together with a map showing the route thereof, the legal sub-divisions of the land, if on surveyed lands, with proper corners and distances, and in case of an enlargement, the depth and width, also the carrying capacity of the ditch enlarged, with the width and depth of the ditch, canal or feeder as enlarged, and the increased carrying capacity of the same thereby occasioned, and the time when such enlargement was commenced, and no priority of right for any purpose shall attach to any such construction or enlargement until such record is made.

This act applicable only to irrigation ditches.

SEC. 3. This act shall apply to and affect only ditches, canals or feeders used for carrying water for the purpose of irrigation, and for no other purpose whatever.

Approved February 11, 1881.

AN ACT

TO PUNISH FOR BREAKING OR DISTURBING THE GATES OR BANKS OF DITCHES, CANALS, RESERVOIRS AND FEEDERS THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

Penalty for injury to ditch, reservoir, etc.

SECTION 1. Any person or persons who shall knowingly and wilfully cut, dig, break down or open any gate, bank, embankment or side of any ditch, canal, flume, feeder or reservoir, in which such person or persons may be a joint owner, or the property of another, or in the lawful possession of another or others, and used for the purpose of irrigation, manufacturing, mining or domestic purposes, with intent, maliciously, to injure any person, association or corporation, or for his or her own gain, unlawfully, with intent of stealing, taking or causing to run or pour out of such ditch, canal, reservoir, feeder or flume, any water for his or her own profit, benefit or advantage, to the injury of any other person, persons, association or corporation, lawfully in the use of such water or of such ditch, canal, reservoir, feeder or flume, he, she or they so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than five dollars, nor more three hundred dollars, and may be imprisoned in the county jail not exceeding ninety days.

Jurisdiction of justices' of offences under this act.

SEC. 2. Justices of the peace shall have jurisdiction of all offenses under the provisions of this act, saving to any party defendant the right to be tried by a jury as in other criminal cases before such justices, now provided for by law; and also the right to appeal in manner and form as by law, now, or hereafter to be provided for by law, in criminal cases before such justices.

Approved February 12, 1881.

AN ACT

RELATING TO IRRIGATING DITCHES AND MANNER OF THEIR CONSTRUCTION.

Be it enacted by the General Assembly of the State of Colorado:

No tract of land subjected to expense of two ditches, when.

SECTION 1. That no tract or parcel of improved or occupied land in this state, shall, without the written consent of the owner thereof, be subjected to the burden of two or more irrigating ditches costructed for the purpose of conveying water through said property, to lands adjoining or beyond the same, when the same object can feasibly and practicably be attained by uniting and conveying all the water necessary to be conveyed through such property in one ditch.

Shortest and most direct route to be selected through another's lands.

SEC. 2. Whenever any person or persons find it necessary to convey water for the purpose of irrigation, through the improved or occupied lands of another, he or they shall select for the line of such ditch through such property the shortest and most direct route practicable, upon which said ditch can be constructed with uniform or nearly uniform grade, and discharge the water at a point where it can be conveyed to and used upon the land or lands of the person or persons constructing such ditch.

Owner of private ditch not to prohibit others from using same, upon tender of reasonable proportion of cost.

SEC. 3. No person or persons having constructed a private ditch for the purposes and in the manner hereinbefore provided, shall prohibit or prevent any other person or persons from enlarging or using any ditch by him or them constructed in common with him or them, upon payment to him or them of a reasonable proportion of the cost of construction of said ditch.

Approved February 12, 1881.

AN ACT

TO PROVIDE FOR HEAD-GATES FOR IRRIGATING DITCHES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the owner, or owners of every irrigating ditch, flume, or canal, in this state, shall be required to erect and keep in good repair, a head-gate at the head of their ditch, flume, or canal. Such head-gate, together with the necessary embankments, shall be of sufficient height and strength to control the water at all ordinary stages. The framework of such headgate shall be constructed of timber not less than four inches square, and the bottom, sides, and gate or gates, shall be of plank, not less than two inches in thickness.

SEC. 2. Owners of all ditches shall be liable for all damages resulting from their neglect or refusal to comply with the provisions of section one of this act.

Approved February 11, 1881.

AN ACT

TO AMEND AN ACT ENTITLED AN ACT TO AMEND CHAPTER FORTY-NINE OF THE REVISED STATUTES OF COLORADO TERRITORY, ENTITLED "JURORS," APPROVED FEBRUARY 4, 1876.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section one of said act is hereby repealed, and the following shall stand in lieu thereof as section one:

The fact that any juror in any district or county court shall have served as a regular juror of the regular panel in either of said courts at the term next preceding, shall be a sufficient excuse for such juror from service, and may also be ground for challenge for cause to such individual juror.

Approved February 12, 1881.

AN ACT

TO AMEND CHAPTER FIFTY-FIVE (55) OF THE GENERAL LAWS "CONCERNING JUSTICES AND CONSTABLES."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section seventy (70), of chapter fifty-five (55), of the General Laws, concerning "justices and constables," is hereby repealed, and the following shall stand in lieu thereof, as section seventy:

When capias may issue against body.

If the constable shall return, on such execution, that the defendant or defendants have no goods and chattels whereof to make the money, the justice shall issue a capias, against the body of the defendant or defendants; and the constable shall arrest such person or persons, and commit him or them to the jail of the county, there to remain forty-eight hours; and if the fine exceeds three dollars, then to remain in the said jail twenty-four hours for every two dollars over and above the said three dollars, and so on, in proportion to amount of said fine.

Approved February 18, 1881.

AN ACT

TO GIVE THE CONSENT OF THIS STATE TO THE PURCHASE, BY THE UNITED STATES, OF LANDS WITHIN IT FOR THE ERECTION THEREON OF FORTS, MAGAZINES, ARSENALS AND OTHER NEEDFUL BUILDINGS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the consent of this state is hereby given to the purchase by the United States of such ground in the city of Denver, or any other city or incorporated town in this state, as its authorities may select, for the accommodation of the United States circuit and district courts, post offices, land offices, mints, or other government offices in said cities or incorporated towns, and also to the purchase by the United States of such other lands within this state as its authorities may from time to time select for the erection of forts, magazines, arsenals and other needful buildings. Consent to acquisition of lands by United States.

SEC. 2. Inasmuch as an appropriation for the erection of government buildings in this state is now under consideration by the Congress of the United States, which is supposed to depend upon the provisions of this act, therefore an emergency exists, and this act shall take effect and be in force from and after its approval. Emergency.

Approved February 1, 1881.

AN ACT

TO SECURE LIENS TO MECHANICS AND OTHERS, AND TO REPEAL ALL OTHER ACTS IN RELATION THERETO.

Be it enacted by the General Assembly of the State of Colorado:

Who may have lien upon building and land, and upon building alone.

SECTION 1. All persons performing work or labor, or furnishing materials by contract, express or implied, with another or his agent, to the amount of not less than twenty-five dollars, on or for any structure upon the land of that other or in or to which that other has an interest, tenancy or claim, of any sort whatever, shall have a lien upon such land and structure to the extent of such ownership, interest, claim or tenancy at the time of the commencement of such work or labor, or furnishing such materials, and a lien on such structure where the other has no ownership, interest, tenancy or claim, of, in or to such land, on complying with the terms of this act.

Claimants of lien to file notice with county clerk.

SEC. 2. Claimants of such lien shall file in the office of the clerk and recorder of the county wherein said land is situate, within forty days after the last of the labor is performed, or materials furnished, a notice of claim substantially like the following:

Place and date.

Form of notice of lien.

To A. B———:

You are indebted to me in the sum of———dollars for work and labor done (or materials furnished, as the case may be,) by me, under a contract with you (or your agent), on the structure recently built (or repaired) by you, on lots———in block———in this city (or town), for which sum I claim a lien on said lots and structure.

C. D.

Statement to be sworn to.

And said statement shall be sworn to by the party making the same before a competent officer, and said oath certified substantially in following form:

State of Colorado, }
———County, } ss.

Form of certification of oath.

C. D., being this day duly sworn by me, deposed and said that the sum of money mentioned in foregoing statement is justly due him from said A. B.

E. F., Notary Public. [Seal.]

(Date.)

Clerk to record statement; lien to take effect from time of filing statement.

SEC. 3. It shall be the duty of the county clerk and recorder to record such statement in a separate book provided for that purpose, and from the time of such filing the amount so stated shall become a lien on said land or structure, or both, to the extent of the ownership, interest, claim or tenancy as aforesaid of the debtor, subject, nevertheless, to adjudication as hereinafter set forth.

Sub-contractors and others to have lien.

SEC. 4. Every sub-contractor, whether immediate or remote, and every machanic, laborer and material-man, performing work or labor, or furnishing materials for any such structure to the amount of not less than twenty-five dollars, by contract, express or implied with another doing work upon, or furnishing materials for such structure, shall have a lien as provided in section one, although no privity of contract exists between him and the person for whom the work or labor is done, or materials are furnished, or [on] complying with the condition following:

Service of statement on owner or agent, how made.

He shall serve on the person for whose structure the work has been performed or the materials have been furnished, or in his absence, on his agent in charge of this [the] building or the repairing of such structure or superintending the work thereon, or where there is no agent, by posting in a conspicuous place on the structure, before five o'clock in the afternoon of the Saturday next following, after the performing of the work and labor, or furnishing the materials, a statement which in the case of a material-man shall be substantially like the following:

Form of statement of material-man.

(Place and date.)

To A. B———:

I have furnished for your structure on ——— street, between ——— and ——— streets, in this city (or town) since last Saturday, on account of (——— your contractor or ——— a sub-contractor,) materials consisting of lumber, brick, hardware, (as the case may be) to the amount of ——— dollars, for which I ask credit.

J. K.

In the case of a sub-contractor said statement shall be substantially like the following:

Form of statement of sub-contractor.

(Place and date.)

To A. B———:

I have performed work and labor, and furnished materials for your structure on ——— street, between ——— and ——— streets, in this city (or town), since last Saturday, on account of (——— your contractor, or ——— a sub-contractor,) to the amount of ——— dollars, for which I ask credit.

L. M.

In the case of a machanic or laborer, said statement shall be substantially like the following:

Form of statement of mechanic or laborer.

(Place and date.)

To A. B———:

I have performed work and labor on your structure on ——— street, between ——— and ——— streets in this city (or town) since last Saturday, on account of your (——— contractor, or ——— a sub-contractor,) to the agreed amount of ——— dollars, for which I ask credit.

N. O.

Sub-contractor, mechanic, laborer or material-man to file notice as provided in section 2.

SEC. 5. Every sub-contractor, mechanic, laborer or material-man claiming a lien for the amount so specified in such statement or statements, when the same is not less than twenty-five dollars, shall within forty days after the last work done, or labor performed, or the last of the materials furnished, file a notice of claim as provided in

section two, omitting the words "under contract with you (or your agent)" from the form there prescribed, which notice shall be recorded as provided in section three; and from and after the filing of said notice, the amount named therein shall become a lien in like manner and with like effect as in the case of a contractor.

Liens on building lots.

SEC. 6. The provisions of this act shall apply to persons performing work or labor, or furnishing materials, to the amount of not less than twenty-five dollars upon any building lots in any city or town for the improvement thereon [thereof] as such, and they shall have a like lien whether as contractors, sub-contractors, mechanics, laborers, or material-men, and claim and enforce the same in like manner as is hereinbefore provided in other cases.

Liens upon railroads, tollroads, canals, ditches, mines, etc.

SEC. 7. The provisions of this act shall also apply to contractors, sub-contractors, mechanics, miners, laborers, and material-men performing work or labor, or furnishing materials to the amount of not less than twenty-five dollars for the construction or repair of any railroad, tramway, toll road, canal, water ditch, flume, aqueduct or reservoir, or in or upon any mine, lode, or deposit yield [yielding] metals or mineral of any kind, or which is being worked in search of such metals or minerals, or upon any shaft, tunnel, adit, drift, or other excavation designed or used for the purpose of draining or working any such mine, lode, or deposit, and all such persons shall respectively have a lien, whether as contractors, sub-contractors, mechanics, miners, laborers, or material-men upon such railroad, tramway, toll roads, canals, water ditch, flume, aqueduct, or reservoir, and all the franchises, charter privileges, priority of rights of water, and rights of way that may in anywise pertain to any such railroads, tramways, toll roads, canals, water ditches, flumes, aqueducts or reservoirs, and upon such mines, lodes or deposits, and they shall claim and enforce the said liens in like manner as is herein provided as to liens claimed by the same class of persons in other cases: *Provided*, that when two or

Two or more mines worked through common shaft deemed one mine.

more such lodes or deposits, owned or claimed by the same person or persons shall be worked through a common shaft, tunnel, incline, adit or drift, then all the lodes or deposits so worked, shall for the purposes of this act, be deemed one mine; and, *provided further*, that this section shall not be deemed to apply to the owner or owners of any mine, lode, deposit, shaft, adit or drift where the same shall be worked by a lessee or lessees.

Not applicable to mines worked by lessee.

Amount claimed in statement, enjoined in hands of owner.

SEC. 8. Upon service of a statement by a sub-contractor, mechanic, laborer or material-man on the person for whom the structure is being built or repaired, or on his agent, or the posting of the same as provided in section two, the payment to the contractor or sub-contractor of so much money as is claimed therein to be due, shall be deemed to be enjoined in the hands of the owner, and it shall be his duty to hold the same whether then due or thereafter to become due to the contractor or sub-contractor, for the benefit as well of the contractor or sub-contractor, as the case may be, as of the person claiming the same, until the right of the latter to receive the amount claimed, if the same be contested, shall have been legally adjudged; and when any amount shall have been so adjudged to be due him, it shall become a legal claim against the owner to the extent of his indebtedness to the contractor or sub-contractor, and the payment thereof by him to the claimant shall operate as a payment to the contractor or sub-contractor; *provided*, that the legal liability so established, or the proceedings for the establishment of the same shall not in any wise be a bar to a proceeding for the enforcement of a lien for such claim on the lands, structures, railroads and other properties hereinbefore mentioned as subject to such lien.

Owner to withhold money until right to same determined.

Amount adjudged due to become legal claim against owner.

Proviso.

Owner not to make any payment to contractor or sub-contractor for current week, prior to 5 o'clock P.M. of Saturday.

SEC. 9. It shall not be lawful for any such owner, by himself or agent, directly or indirectly, to make any payment to any contractor or sub-contractor on account of any work done or materials furnished for, or on any such structure or lots, for the current work, [week,] except after the hour

of five of the clock in the afternoon of the Saturday following the performance of the work or furnishing of the materials; and no such payment made in violation of this section shall discharge the owner of his liability to any sub-contractor, material-man, mechanic or laborer, which but for that payment would have accrued under this act.

Who shall be made defendants in action to determine right of lien.

SEC. 10. If any contractor or sub-contractor shall deny the validity of any claims so stated as provided in section four, he may bring suit in any competent court by filing his complaint therein, to which he may make as many persons defendant as have served claims on the owner, the validity of which he denies, and he shall make the owner a defendant therein, alleging the invalidity of such claims; and thereupon the court shall summon all the defendants and without delay adjudicate the rights of the parties; or any person making such claims [claim] may bring suit against such contractor or sub-contractor, making the owner a defendant, avering his claim and ask to have the same adjudicated; in which case the contractor or sub-contractor may, by his answer, set up that there are other persons who have stated similar claims, naming them, and ask that they be summoned to appear and maintain the same; and upon the coming in of all the parties who can be found, the court shall, without delay, adjudicate the rights of all the parties appearing, or summoned in the suit; but in no case shall any costs be taxed against the owner.

Mechanics, laborers, etc., may bring suit against contractor, etc., for adjudication of rights.

Lands occupied by buildings, railroads, etc., subject to liens, when.

SEC. 11. So much land as may be occupied by any such structure, railroad, tramway, toll road, canal, water ditch, flume, aqueduct or reservoir, building lots, mine, lode or deposits, as may be necessary for the convenient use and occupation of the same, shall be subject to the liens hereinbefore provided for; and all such liens shall relate back to the commencement of work or labor, or of the furnishing of materials by the claimant, and shall have priority over any and every lien or incumbrance subsequently intervening, or which may have been created prior

Preference of liens herein named over other liens.

thereto, but which was not then recorded and of which the lienor under this act had no notice.

Liens not to bind property unless action commenced within six months.

SEC. 12. No lien claimed by virtue of this act shall hold the property longer than six month [months] after filing the claim for the same in the office of the county clerk and recorder, unless an action be commenced within that time to enforce the same. The mode of commencing suit to enforce such lien and the proceedings shall be as in other cases of foreclosure of liens, as near as may be. All persons having claims for liens filed in the office of the county clerk shall be made parties to the suit. The court shall proceed to hear and determine said claims in a summary manner, or may refer the same to a referee to ascertain and report upon said liens, and the amount justly due thereon. Judgments shall be rendered according to the rights of the parties. On ascertaining the whole amount of said liens with which said premises are justly chargeable, as hereinbefore provided, the court shall cause said premises to be sold in satisfaction of said liens and costs of suit, at the instance of any party in whose favor such judgment may be rendered, as [and] such sale shall, as near as may be, conform to sales on executions, issued out of any court of record; and the owner and his creditors shall have a right of redemption, as is provided in the case of such sales on execution. And if the proceeds of such sale, after the payment of costs, shall not suffice to satisfy the whole amount of such liens adjudged in said case, then such proceeds shall be apportioned, pro rata, among the several parties. In case the proceeds amount to more than the sum of said liens and the costs of sale, then the remainder shall be paid over to the owner of said property. Each party whose claim is not satisfied in the manner provided in this section, shall have judgment and execution for the remainder unsatisfied.

Manner of enforcement of liens.

Judgments, how rendered.

Sale of property, how made.

Redemption.

Disposition of proceeds of sale; party whose claim is unsatisfied may have judgment and execution.

Other remedy than herein not barred by this act.

SEC. 13. No remedy given in this act or pursuit, or enforcement of the same, shall be construed as supplanting or barring any person from enforcing any other remedy which he otherwise would have had under the law.

Satisfaction of liens.

SEC. 14. Whenever a claim of lien under this act shall have been satisfied, and the costs of filing and recording, and the entry of satisfaction of the same tendered to the claimant, or whenever such claim shall have been adjudged invalid, it shall be the duty of the claimant thereof to cause the same to be satisfied in the office of the clerk and recorder of the county; and if he shall neglect or refuse to do so within a reasonable time after request of any person interested in the property affected thereby, he shall forfeit and pay to said person the sum of twenty dollars for every day of such neglect or refusal, to be recovered in the same manner as other debts.

Penalty for failure to satisfy.

Assignee of claims may have and enforce lien.

SEC. 15. For the purpose of any suit provided in this act, or the filing of any lien in the office of the clerk and recorder, an assignee of the claim of one or more persons of his class, which in the aggregate, including his own, shall amount to not less than twenty-five dollars, may hold a lien and pursue the remedy to force the same provided herein in like manner as if the whole amount had been originally due him.

Surveyors may have lien for work.

SEC. 16. The provisions of this act shall apply to surveyors doing any work of surveying and platting of any mines, lodes or mineral deposits, and they shall have like lien and claim, the same as other persons, under the provisions of this act.

Owner not liable in excess of contract price.

SEC. 17. Nothing in this act contained shall be so construed as to render the owner liable in any event for any amount in excess of the contract price.

Repeal.

SEC. 18. All acts and parts of acts inconsistent with the provisions of this act, and chapter fifty-nine of the General Laws of 1877, entitled "Liens," and "an act to amend an act entitled 'an act to secure liens to mechanics and others, and to repeal all other acts in relation thereto,'" published at the end of said chapter, are hereby repealed; *provided*, that the repeal of said acts and parts of acts or of any of them shall not be construed to affect any right either as to the remedy or otherwise, nor to abate any suit, action

Proviso.

or proceeding existing, instituted or pending under the laws so hereby repealed.

Approved February 12, 1881.

AN ACT

TO AMEND CHAPTER LIX OF THE GENERAL LAWS, AND TO REPEAL ALL LAWS INCONSISTENT THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one of chapter LIX of the General Laws, be amended so as to read as follows:

Ranchman, farmer, etc., to have lien on stock for amount due for feeding, etc.

Any ranchman, farmer, agister or herder of cattle, tavern keeper or livery stable keeper, to whom any horses, mules, asses, cattle or sheep shall be intrusted for the purpose of feeding, herding, pasturing, or ranching, shall have a lien upon said horses, mules, asses, cattle or sheep, for the amount that may be due for such feeding, herding, pasturing or ranching, and shall be authorized to retain possession of such horses, asses, mules, cattle or sheep, until the said amount is paid; and every hotel, tavern and boarding house keeper shall have a lien upon the baggage of his or her patrons, boarders and guests for the amount that may be due from such patrons, boarders and guests for boarding and lodging, or either; and they are hereby authorized to hold and retain possession of such baggage until the amount so due or [for] board or lodging or either, is paid; *provided*, that the provisions of this section shall not apply to stolen stock; *and provided further*, that the term "boarding house keeper" as used in this section shall be construed to include persons who rent furnished rooms, whether by the day, week, or month.

Hotel keeper, etc., to have lien on baggage of guests, etc.

Proviso.

Approved February 18, 1881.

AN ACT

TO BE ENTITLED AN ACT CONCERNING "LOCO" OR POISON WEED.

Be it enacted by the General Assembly of the State of Colorado:

Premium for destroying "loco" weed.

SECTION 1. That any person who shall dig up not less than three inches below the surface of the ground any "loco" or poison weed during the months of May, June, or July, shall receive a premium of one and one-half cents per pound for each pound of such weed dug up, to be paid out of the state treasury as hereinafter provided; *provided*, that such weed shall not be weighed in a green state, but shall be thoroughly dry when weighed.

Affidavit to be made upon claiming premium.

SEC. 2. Any person claiming such premium may produce the weed to the county clerk of the county in which such weed shall be and was dug up within two months after such digging up, and take and subscribe the following oath or affirmation before such clerk: "I do solemnly swear (or affirm) that the weed here produced by me this day is 'loco' or poison weed, giving the number of pounds, dug up by me within two months last past." To which oath the clerk shall append the usual jurat, subscribed by himself as such officer.

Clerk to destroy weed paid for.

SEC. 3. Such clerk shall correctly weigh and forthwith destroy such weed by burning the same, and give the person proving up the same, as aforesaid, under the hand of such clerk and the county seal, a certificate setting forth in words the number of pounds of weed and the name and residence of such person, and that he has proved the digging up as required by statute, and is entitled to the sum of one and one-half cents per pound as premium therefor.

Premiums, how paid.

SEC. 4. Such certificate shall be received and the amount so certified paid to the holder on presentation by

[to] the collector of the revenue of the county in which the same was given, and such collector shall be allowed pay out of the state treasury for the same.

Clerk to keep register and transmit copy to state treasurer.

SEC. 5. Such clerk shall keep a register of pounds of weed in a book which he suall keep for that purpose, in which he shall enter every certificate granted, the date when, and the person by whom proven, and shall transmit a certified copy of such register on the first of September of each year, under the seal of the county, to the treasurer of the state; the said clerk shall file the aforesaid oaths and keep them free for inspection.

Fees of clerk.

SEC. 6. Such clerk shall receive [pay] for his services from the person proving up the same, at the same rate as allowed by law for similar services.

Approved March 14, 1881.

AN ACT

CONCERNING LOTTERIES; PROHIBITING THE ADVERTISEMENT AND SALE OF LOTTERY TICKETS, AND PRESCRIBING PENALTIES THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

Engaging in or promoting lotteries unlawful.

SECTION 1. It shall not be lawful hereafter for any person, persons, association of persons, or corporation to engage in or otherwise promote any lottery or gift enterprise of any nature, or for any purpose whatsoever. Every person who shall knowingly engage in or in anywise promote any lottery or gift enterprise, whether in his own behalf, or as the agent or employé of another, or of a corporation, or who shall for himself, or as such agent or employé, knowingly sell, give, or exchange or offer to sell,

give or exchange any ticket, share, certificate, receipt, or other token in any lottery or gift enterprise, or who for himself or as such agent or employé shall knowingly advertise any lottery or gift enterprise, in any manner whatsoever, shall be guilty of a misdemeanor, and, on conviction, fined in the sum of not less than one hundred dollars, and imprisoned in the county jail for a period of not less than thirty days. Penalty.

Opening, carrying on or promoting lottery, or other game of chance of any name, unlawful.

SEC. 2. No person or persons, corporation or association, shall, within this state, open, set on foot, carry on, promote, or draw publicly or privately, any lottery, game or device of chance of any nature, or kind whatsoever, or by whatever name it may be called, for the purpose of exposing, setting to sale, or disposing of any houses, lands, tenements, mines, or real estate, or any money, goods, or things in action. Whatever [whoever] violates this provision, shall, for each offence, upon conviction, upon indictment, be fined not less than one hundred dollars, or imprisoned in the county jail not less than sixty days, or both, in the discretion of the court. Penalty.

Advertising of lottery unlawful.

SEC. 3. No person or persons, association or corporation, shall, by printing, writing, setting up of a sign, symbol, emblem, or in any other way or manner whatsoever, advertise or publish an account of any such lottery, game or device, or indicating or stating when or where the same is to be drawn, or the prizes therein, or any of them, or the price of a ticket or share therein, or where any ticket or part of a ticket, or share or part of a share therein, may be obtained, or in any way aid or assist in the same. Whoever violates either of these provisions, shall, upon conviction, upon indictment, be fined not exceeding one hundred dollars, or be imprisoned in the county jail not less than thirty days, or both, in the discretion of the court. Penalty.

Publishing advertisement of lottery unlawful.

SEC. 4. And it shall be unlawful for any person, persons, association or corporation, being the owner or owners of any newspaper publish [published] in this state,

to publish in any such newspaper any advertisement of any lottery, game or device of chance, whether the drawing be to take place in this state or not. Whoever violates this provision shall, upon conviction, upon indictment, be fined not less than one thousand dollars.

Penalty.

Selling, furnishing, etc., lottery ticket, unlawful.

SEC. 5. No person or persons, corporations or associations, within this state, shall vend, sell or barter, furnish, supply, procure, or cause to be furnished or procured, or offer to vend, sell, barter, furnish, supply, procure, or cause to be furnished or procured, or have or keep in his possession with intent to sell, vend, barter, furnish or supply, to or for any person or persons, corporation or association, any ticket, or part or share of a ticket, or any paper or instrument purporting to be a ticket or part of a ticket, or to be a share or interest in any ticket, or any certificate of any share or interest in any ticket, or in any paper purporting to be a ticket of or in any such lottery, device or game of chance; nor shall any person aid, abet or assist in the violation of either of said provisions. Whoever violates either of these provisions shall, upon conviction, upon indictment, be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding sixty day [days], or both, in the discretion of the court.

Penalty.

Proof of sale, procuring, furnishing, etc., of lottery ticket, how made.

SEC. 6. It shall not be necessary in the trial of any suit, prosecution, or examination under the provisions of this act, to prove the existence of any lottery, game, or device of chance, in which any ticket, share or part of a ticket, purports to have been issued, or the actual signing of any such ticket or share, or of any such pretended ticket or share, of any pretended lottery, device, or game of chance: nor that any ticket, share or interest, was signed or issued by the authority of any manager or officer, or of any person assuming to have authority as manager; but in all cases, proof of the sale, furnishing, bartering, or procuring of any ticket, share or interest therein, or of any instrument puporting to be a ticket, or

part or share of any ticket, or of the possession or keeping thereof, shall be conclusive evidence that such ticket, or share, or interest, was signed and issued according to the purport thereof.

Indictment or information under this act, when good and sufficient.

SEC. 7. Any indictment or information under this act shall be deemed and adjudged good and sufficient which describes the offense in the words of this act, although it does not set out the name or location of such lottery, device, or game of chance, nor set out in words and figures the ticket, policy or device, or part or interest sold, bartered, or exchanged, or offered, or kept, or advertised, to be sold, bartered, or exchanged, or furnished, or supplied.

Who competent as witness.

SEC. 8. The purchaser of any such ticket, part or share of such ticket, or interest, share, or chance in such lottery, game, or device, shall in all respects be a competent witness to prove any offense under this act.

SEC. 9. This act shall take effect and be in force from and after its passage.

Approved February 12, 1881.

AN ACT

TO REGULATE MARRIAGES.

Be it enacted by the General Assembly of the State of Colorado:

County clerk may issue marriage license.

SECTION 1. The county clerk of any county in this state shall have authority to issue marriage licenses to any parties applying for the same, who may be entitled, under the laws of this state to contract matrimony, authorizing the marriage of such parties, which licenses shall be substantially in the following form:

Form of license.

Know all men by this certificate, that any regularly ordained minister of the gospel, authorized by the rules and usages of the church or denomination of christians, hebrews, or religious body of which he may be a member, or any judge or justice of the peace to whom this may come, he not knowing of any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between ———, of ——— [of] the county of ———, and ———, of ——— [of] the county of ———, and to certify the same to said parties, or either of them, under his hand and seal, in his ministerial or official capacity, and thereupon he is hereby required to return his certificate in form following, as hereto annexed.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said county, at ———, this ——— day of ———, A. D. 18—.

Form of marriage certificate.

SEC. 2. The form of certificate annexed to said license, and therein referred to, shall be as follows:

I, ———, a ——— residing at ———, in the county of ———, in the State of Colorado, of the ———, do certify that in accordance with the authority on me conferred by the above license, I did on this ——— day of ———, in the year, A. D. 18—, at ———, in the county of ———, in the State of Colorado, solemnize the rights of matrimony between ———, of ———, in the county of ———, of the ———, and ———, of ———, of the county of ———, of the ———, in the presence of ——— and ———.

Witness my hand and seal at county aforesaid, this ——— day of ——— A. D. 18—.

In presence of

———

——— [SEAL.]

Return of license and certificate; when and to whom made.

The license and certificate duly executed by the minister or officer who shall have solemnized the marriage authorized, shall be returned by him to the office of the

clerk who issued the same, within thirty days from the date of solemnizing the marriage therein authorized, and a neglect to make such return shall be deemed a misdemeanor, and the person whose duty it shall be to make any such return, and who shall neglect to make such return within the time above required, shall, upon conviction thereof, be punished by fine of not less than twenty nor more than fifty dollars, to be assessed by any justice of the peace or other court having jurisdiction.

Penalty for failure to make return.

SEC. 3. Every county clerk who shall have personal knowledge of the competency of the parties for whose marriages [marriage] a license is applied for; shall issue such license upon payment or tender to him of his legal fee therefor; and if such clerk does not know of his own knowledge that the parties are competent under the laws of this state to contract matrimony, he shall take the affidavit in writing of the person or persons applying for such license, and of such other persons as he may see proper, and of any person whose testimony may be offered; and if it appear from the affidavits so taken that the parties for whose marriage the license in question is demanded, are legally competent to marry, the clerk shall issue such license, and the affidavits so taken by him, shall be his warrant against any fine of [or] forfeiture for issuing such license. Any county clerk who shall issue a license to marry any parties, one or both of whom shall not be at time of marriage under such license legally competent to marry, without taking such testimony by affidavit as shall show that the parties authorized by such license to be married are legally competent to marry, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the sum of one hundred dollars, before any court having jurisdiction.

Competency of parties, how ascertained by clerk.

Penalty for issuing license to incompetent parties.

SEC. 4. The county clerk shall have power to administer all oaths required or provided for in this act, and if any person, in any such affidavit, shall wilfully and corruptly swear falsely in regard to any material fact as to

Penalty for making false affidavit to competency of parties.

the competency of any person for whose marriage the license in question, or concerning the procuring or issuing of which such affidavit may be made, shall be deemed guilty of perjury, and on conviction thereof, shall be punished as provided by statute in other cases of perjury.

License to be authority of minister, etc., when.

SEC. 5. Any such minister or officer as aforesaid, to whom any such license, duly issued, may come, and not having personal knowledge of the incompetency of either party therein named to contract matrimony, may lawfully solemnize matrimony between them.

Penalty for solemnizing marriages without license, etc.

SEC. 6. If any such minister or officer shall presume to solemnize any marriage between any parties without such a license, or with knowledge that either party is legally incompetent to contract matrimony as is provided for in this act, he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by fine of not less than fifty dollars nor more than two hundred dollars, before any court having jurisdiction.

Clerk to file license and record certificate.

SEC. 7. The county clerk of each county in this state shall keep on file every such marriage license returned to him, and shall record each marriage certificate so returned in a proper book to be kept for that purpose, and shall be entitled to a fee of one dollar therefor, which fee he shall demand and receive of the person applying for any such license, at the time of issuing the same, and he may refuse to issue any such license until such fee is paid to him.

Fee of clerk.

Approved February 4, 1881.

AN ACT

TO PROTECT THE PUBLIC HEALTH AND REGULATE THE PRACTICE OF MEDICINE IN THE STATE OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SEC. 1. That a board is hereby established which shall be known under the name and style of the state board of medical examiners, to be composed of nine practicing physicians, of known ability and integrity, who are graduates of medical schools of undoubted respectability, giving each of the three schools of medicine (known as the regular, homœopathic and eclectic schools,) a representation as follows, to wit: six physicians of the regular, two of the homœopathic, and one of the eclectic school or system of medicine. State medical board, how constituted.

SEC. 2. The Governor of this state shall, as soon as practicable after this act shall have become a law, appoint a state board of medical examiners, as provided in section one of this act, and the members first appointed shall be so designated by the Governor that the term of office of three shall expire in two years from the date of appointment; the term of office of three shall expire in four years from the date of appointment, and the term of office of three shall expire in six years from the date of appointment. Thereafter the Governor shall biennially appoint three members, possessing qualifications as specified in section one, to serve for the term of six years, and he shall also fill all vacancies that may occur, as soon as practicable; *provided*, that in making biennial appointments or filling vacancies the representation of the medical schools in the board shall not be changed from the original basis, as in section one of this act. Appointment of board, terms of office. Proviso.

SEC. 3. The board of medical examiners shall, as soon after their appointment as practicable, organize by the election of one of their members as president, one as Organization, rules, seal.

secretary and one as treasurer, and adopt such rules as are necessary for their guidance in the performance of the duties assigned them, and also adopt a seal, which shall be affixed to all certificates issued by them to practitioners of medicine.

Qualifications requisite to obtain certificate of board.

SEC. 4. That every person practising medicine in any of its departments, shall possess the qualifications required by this act. If a graduate in medicine, he shall present his diploma to the state board of medical examiners for verification, or furnish other evidence conclusive of his being a graduate of a legally chartered medical school in good standing; the state board of medical examiners shall issue its certificate to that effect, signed by a majority of the members thereof, and such diploma or evidence and certificate shall be conclusive as to the right of the lawful holder of the same to practice medicine in this state. If not a graduate of a legally chartered medical institution in good standing, the person practicing, or wishing to practice medicine in this state, shall present himself before said board of medical examiners and submit himself to such examination as defined in section seven of this act, and if the examination be satisfactory to the examiners, the said board of board of medical examiners shall issue its certificate in accordance with the facts, and the lawful holder of such certificate shall be entitled to all the rights and privileges herein mentioned. All persons who have made the practice of medicine and surgery their profession or business continuously, for the period of ten (10) years, within this state, and can furnish satisfactory evidence thereof to the state board of medical examiners, shall receive from said board a license to continue practice in the State of Colorado.

Powers and duties of board.

SEC. 5. The state board of medical examiners within ninety (90) days after the passage of this act shall receive, through its president, applications for certificates and examinations. The president of said board of medical examiners shall have the authority to administer oaths, and the said board of medical examiners to take testimony in

all matters relating to its duties. It shall issue certificates to all who furnish satisfactory proofs of having received diplomas from some legally chartered medical institution in in good standing. It shall prepare two (2) forms of certificates, one for persons in possession of diplomas, the other for candidates examined by its members. It shall furnish to the county clerks of the several counties a list of all persons receiving certificates. Certificates shall be signed by a majority of the members of the board of medical examiners granting them.

Fees.

SEC. 6. There shall be paid to the treasurer of the state board of medical examiners a fee of five dollars ($5.00) for each certificate issued to graduates or practitioners of ten (10) years' standing, and no further charge shall be made to the applicant; candidates for examination shall pay a fee of ten dollars ($10.00) in advance.

Examinations.

SEC. 7. All examinations of persons, not graduates, shall be made directly by the state board of medical examiners. Examinations may be in whole, or part, in writing, and the subjects of examination shall be as follows: Anatomy, physiology, chemistry, pathology, surgery, obstetrics and practice of medicine (exclusive of materia medica and therapeutics.)

Certificates, record of, etc.

SEC. 8. Every person holding a certificate from the state board of medical examiners should have it recorded in the office of the clerk of the county in which he resides, and the record shall be endorsed thereon. Any person removing to another county to practice shall procure an endorsement to that effect on the certificate from the county clerk, and shall record the certificate in like manner in the county to which he removes, and the holder of the certificate shall pay to the county clerk a fee of one dollar ($1.00) for making [the] record.

County clerk to keep register of certificates.

SEC. 9. The county clerk shall keep in a book provided for the purpose a complete list of the certificates recorded by him. If the certificates be based on a diploma, he shall record the name of the medical institution conferring

it and the date when conferred. This register shall be open to public inspection in business hours.

Board may refuse and revoke certificates for cause.

SEC. 10. The state board of medical examiners may refuse certificates to individuals who have been convicted of conduct of a criminal nature, and they may revoke certificates for like causes.

Who regarded as practicing medicine.

SEC. 11. Any person shall be regarded as practicing medicine within the meaning of this act who shall profess publicly to be a physician and prescriber for the sick, or shall attach to his name the title "M. D." or "Surgeon," or "Doctor," in a medical sense. But nothing in this act shall be construed to prohibit gratuituous services in cases of emergency.

When gratuitous services permitted.

Penalty for violation of this act.

SEC. 12. Any person practicing medicine or surgery in any of their departments, in this state, without complying with the provisions of this act, shall be punished by a fine of not less than fifty ($50.) nor more than three hundred ($300.) or by imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or by fine and imprisonment, for each and every offense; and any person filing, or attempting to file, as his own, the diploma or certificate of another, or who shall give false or forged evidence of any kind, shall be guilty of a felony, and upon conviction shall be subject to such fine and imprisonment as are made and provided by the statutes of this state for the crime of forgery.

Disposition of fees and fines.

Expense of board, how paid

SEC. 13. All fees received by the treasurer of said board of examiners, and all fines collected by any officer of the law, under this act, shall be paid into the state treasury; and all necessary expenses of the board shall be paid for out of the funds of the state treasury not otherwise appropriated; but no fee shall be required or accepted by any member of the board for services.

Meetings of board

SEC. 14. The state board of medical examiners shall meet as a board of medical examiners in the city of Denver, on the first Tuesday of January, April, July and October

of each year, and at such other times and places as may be found necessary for the performance of their duties.

Justices' to have jurisdiction to enforce this act.

SEC. 15. Justices of the peace and all courts of record in the State of Colorado shall have full jurisdiction over and power to enforce the provisions of this act.

Approved March 14, 1881.

AN ACT

TO AMEND "AN ACT CONCERNING THE ENROLLMENT AND ORGANIZATION OF THE MILITIA OF THE STATE, PRESCRIBING THE DISTRICT, AND NUMBER, AND RANK OF THE OFFICERS THEREOF, AND DEFINING THE DUTIES OF SUCH OFFICERS," APPROVED FEBRUARY 8, 1879.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. There is hereby added to article V of said act, a section which shall be known as section seven, article V, as follows:

The county commissioners of each county shall, at the time of levying the tax for county purposes, cause to be levied an annual poll tax of one dollar upon each male inhabitant over the age of twenty-one years, excepting active members of the national guard and such other persons as may be exempt by law. A failure or neglect on the part of the county commissioners to levy such tax shall subject such county commissioners and each one of such commissioners to a fine of not less than one thousand nor more than five thousand dollars, for the benefit of the military fund, and it is hereby made the duty of the adjutant-general to institute proceedings against such commissioners to recover such fine.

Approved February 11, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT CONCERNING THE ENROLLMENT AND ORGANIZATION OF THE MILITIA OF THE STATE, PRESCRIBING THE DISTRICT AND NUMBER AND RANK OF THE OFFICERS THEREOF, AND DEFINING THE DUTIES OF SUCH OFFICERS."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section three (3) of article four of said act be amended to read as follows, viz: Sec. 3. In addition to the chief of this department, there shall be one assistant-adjutant-general, with rank of lieutenant-colonel, who shall act for the adjutant-general in case of his absence, and an assistant-adjutant-general, with the rank of major, for each major-general in the service; and an assistant-adjutant-general, with the rank of captain, for each brigadier-general in service.

Assistants adjutant-general; number, rank.

SEC. 2. That section five (5) of article four of said act be amended to read as follows, viz: Sec. 5. In addition to the chief of this department, there shall be one assistant-inspector-general, with the rank of lieutenant-colonel, who shall act for the inspector-general in his absence, and an assistant-inspector-general, with the rank of major, for each major-general in the service; and an assistant-inspector-general, with the rank of captain, for each brigadier-general in the service.

Assistants inspector general; number, rank.

SEC. 3. That section ten (10), article four of said act, be amended to read as follows, viz: Sec. 10. The annual compensation in times of peace of the adjutant-general shall be twelve hundred dollars ($1,200); of the inspector-general, five hundred dollars ($500), and shall be payable quarterly, out of the military fund.

Pay of adjutant-general and inspector general.

SEC. 4. That the following section be added to article four, viz: Sec. 11. That the appointment of officers on the staff of division and brigade commanders shall be made by the commander-in-chief, upon the recommendation of division and brigade commanders, and in times of active service they shall be entitled to the personal staff allowed to officers of like grade in the army of the United States. Appointment of staff officers.

SEC. 5. That section one (1) of article eight of said act be amended to read as follows, viz: Sec. 1. The commander-in-chief, the adjutant-general, inspector-general, judge-advocate-general, and the senior major-general shall constitute a military board, which shall convene whenever the commander-in-chief may order, or the public good may require. State military board, how constituted.

Approved February 12, 1881.

AN ACT

TO REGULATE THE SALE OF MILK, AND TO PROVIDE PENALTIES FOR THE ADULTERATION THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That whoever shall, for the purpose of sale for human food, adulterate milk with water or any foreign substance, or whoever shall knowingly sell for human food, milk from which cream has been taken, without the purchaser thereof being informed, or knowing the fact, or whoever shall knowingly sell for human food, milk from which, what is commonly called "strippings" has been withheld, without the purchaser thereof being informed or knowing the fact, or whoever shall knowingly sell for Adulteration of milk; penalty.

human food, milk drawn from a diseased cow, knowing her to be so diseased as to render her milk unwholesome, or whoever shall knowingly sell for human food, milk so tainted or corrupted as to be unwholesome, or whoever shall knowingly supply, or bring to be manufactured into any substance for human food, to any cheese or butter factory or creamery, without all interested therein knowing or being informed of the fact, milk which is adulterated with water or any foreign substance, or milk from which cream has been taken, or milk from which what is commonly called "strippings" has been withheld, or milk drawn from a diseased cow, knowing her to be so diseased as to injure her milk, or milk so tainted or corrupted as to be unwholesome, or whoever shall knowingly, with intent to defraud, take from milk after it has been delivered to a cheese factory, or butter factory, or a creamery to be manufactured into any substance for human food, for or on account of the person supplying the milk or cream, or shall, with like intent, knowingly add any foreign substance to the milk or cream, whereby it, or the products thereof shall become unwholesome for human food, shall be guilty of a misdemeanor, and for each and every such misdemeanor, shall be fined not less than twenty-five (25,) nor more than one hundred (100) dollars, or confined in the county jail not exceeding six (6) months, or both, in the discretion of the court.

Approved February 19, 1881.

AN ACT

TO ENCOURAGE THE DESTRUCTION OF MOUNTAIN LIONS.

Be it enacted by the General Assembly of the State of Colorado:

Premium for killing mountain lions.

SECTION 1. That any person who shall kill any mountain lion or lions within this state, shall receive a

premium of ten dollars for each lion so killed, to be paid out of the state treasury, as hereinafter provided.

Person claiming premium to produce scalp and ears entire.

SEC. 2. That any person claiming such premium shall produce the scalp (or scalps), with the ears entire, before any officer qualified to administer an oath, in the county in which such mountain lion (or lions) was (or were) killed, and take and subscribe the following oath, to wit:

Affidavit to be made upon delivery of scalps.

I, ———, do solemnly swear (or affirm) that the scalp (or scalps) here produced by me this day are of a mountain lion (or lions, giving the number,) killed within the county of ———, in the State of Colorado within six months last past.

To which oath the officer administering the same shall append the usual jurat, subscribed by himself as such officer, for which he shall receive from the affiant the sum of twenty-five cents.

County treasurer to pay premium upon presentation of scalps and affidavit.

SEC. 3. That said premiums shall be paid by the county treasurer of the county in which such mountain lion (or lions) was (or were) killed, upon presentation to him by such claimant, or some one for him, of such scalp or scalps, with the ears entire, together with the affidavit aforesaid; and the amount so paid out by said county treasurer shall be credited to said county treasurer by the State Treasurer, upon the sworn statement of said county treasurer as to the number of lions killed and paid for in his county, when accompanied by the affidavits provided for in section two of this act.

When state treasurer to credit amount paid by county treasurer.

County treasurer to destroy scalps paid for.

SEC. 4. It shall be the duty of the county treasurer to immediately burn or otherwise effectually destroy all scalps presented and paid for by him as provided in the preceding section.

Emergency.

SEC. 5. Whereas, it is the opinion of this General Assembly an emergency exists; therefore this act shall take effect from and after its passage.

Approved February 11, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT CONCERNING THE TRANSPORTATION OF NITRO-GLYCERINE AND OTHER COMBUSTIBLE AND EXPLOSIVE ARTICLES," APPROVED FEBRUARY 11, 1876.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section two of an act concerning the transportation of nitro-glycerine and other combustible and explosive articles, approved February 11, 1876 (otherwise designated as section 1,853 of the General Laws), be, and hereby is, amended so that the same shall read as follows:

In what manner nitro-glycerine, etc., may be transported.

It shall not be lawful to ship, send, or forward nitro-glycerine, glycerine oil, nitrated oil, nitroleum, or blasting oil, or to transport any of the same upon any vehicle of any description, or to deliver the same to be transported, carried, or conveyed, unless the same shall be securely enclosed, deposited or packed in a metalic vessel, surrounded by plaster of paris or other material that will be non-explosive when saturated with such oil or substance, and separate from all other substances, and the outside of the package containing the same, be marked or labeled in a conspicuous manner with the words, "nitro-glycerine—dangerous."

Emergency.

SEC. 2. Inasmuch as the section so amended will, if enforced, prevent the economical shipment of the explosives now commonly used in working the mines of this state, and prevent the working of many mines which otherwise may be worked, therefor [therefore] an emergency exists and this act shall take effect from and after its passage.

Approved February 12, 1881.

AN ACT

TO PREVENT THE FRAUDULENT SALE OF OLEOMARGARINE AS BUTTER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Every person who shall manufacture for sale, or who shall offer or expose for sale, any article or substance in semblance of butter, not the legitimate production of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals not produced from milk, enters as a component part, or into which melted butter, or any oil thereof has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon every tub, firkin, box or package of such article or substance, the word "oleomargarine," and in case of retail sale of such article or substance in parcels, the seller shall, in all cases, deliver therewith to the purchaser, a written or printed label bearing the plainly written or printed word "margarine." And every sale of such article or substanced not so stamped, branded, marked, or labeled is declared to be unlawful, and no action shall be maintained in any of the courts of this state to recover upon any contract for the sale of any such article or substance not so stamped, branded, marked or labeled.

Manufacturer or seller of oleomargarine to stamp same.

No action maintained on contract for sale of such article not stamped.

SEC. 2. Every person who shall knowingly sell, or offer to sell, or have in his or her possession with intent to sell, contrary to the provisions of this act, any of the said article or substance required by the first section of this act to be stamped, marked, or labeled, as therein stated, not so stamped, marked, or labeled, or in case of retail sale, without delivery of a label required by section one of this act, shall, for each offense, forfeit and pay a fine of one hundred dollars, to be recovered with costs in any of the courts of this state having cognizance thereof, in an action to be prosecuted by the district attorney in the name of the

Penalty for illegal sale, etc.

people, and the one-half of such recovery shall be paid to the informer, and the residue shall be applied to the support of the poor in the county where such recovery is had.

Proof of sale or offer, how made.

SEC. 3. Every person who shall knowingly sell, or offer, or expose for sale, or who shall cause or procure to be sold, or offered, or exposed for sale, any article or substance required by section one of this act, to be marked, branded, stamped or labeled, not so marked, branded, stamped or labeled, shall be guilty of a misdemeanor, and on trial for such misdemeanor, proof of the sale, or offer, or exposure alleged, shall be presumptive evidence of knowledge of the character of the article so sold or offered, and that the same was not marked, branded, stamped, or labeled as required by this act.

Approved February 4, 1881.

AN ACT

TO AMEND CHAPTER SEVENTY-FOUR OF THE GENERAL LAWS OF THIS STATE, OF THE YEAR A. D. 1877, ENTITLED "PARTITION."

Be it enacted by the General Assembly of the State of Colorado:

Commissioners may cause lands to be divided into lots, streets, etc.

SECTION 1. Whenever, in the opinion of the commissioners appointed by the court to make partition of lands, it will be to the interest of the parties interested in such lands to divide the same into lots, and to lay out streets or avenues and alleys, they may cause the same to be done, and in such case they shall return, with their report, a map or plot of the land so laid out, which shall, however, be subject to the rejection or confirmation of the court; and upon good cause shown by any of the parties,

Map.

the court may set aside the report, and appoint other commissioners as often as may be necessary to substantial justice between the parties, who shall proceed in the manner hereinbefore directed. Court may appoint other commissioners upon good cause shown.

SEC. 2. If no such cause be shown, the report of the commissioners shall be confirmed, and final judgment rendered thereon, which judgment shall be binding and conclusive upon all the parties to the proceedings, and all other persons claiming under them. When report of commissioners confirmed and judgment final.

SEC. 3. A copy of such report, and of such confirmation and judgment, duly certified, under the seal of the court by the clerk thereof, shall be recorded in the office of the recorder of deeds of the county in which such lands or any part thereof may be situated. Report, etc., to be recorded by county clerk.

SEC. 4 The report of commissioners, in cases where land shall be divided into lots, as provided in the first section of this amendment to said act, shall set forth the lots or parts of lots, assigned to each party interested in the partition, with reference to the blocks in which the same are situated, with such other description as may be necessary to designate the same, if any shall be necessary. Report of commissioners, what shall set forth.

SEC. 5. When commissioners in pursuance of this act shall have laid out land into lots, streets or avenues, and alleys, and returned a plat of the land so divided to the court, and their report is confirmed, and final judgment rendered thereon as herein provided, they or a majority of their number, shall file a copy of the plat or map of the land so divided in the office of the recorder of deeds of the county where the same is situated, for record, as now provided by law for the filing of plats of towns and cities or additions thereto, upon which they shall certify, under their hands and seals, that the plat or map by them filed, has been confirmed by the court in which such proceedings were had, and when the said map or plat shows that the same is an addition to a city or town, they shall submit the same before such filing, to the proper authority of Commissioners to file copy of plat with county clerk. Certificate of commissioners. When plat is an addition to city or town it shall be submitted for approval.

such city or town, for its approval, as prescribed in article second of chapter "C," section twenty-six hundred and forty-eight of the General Laws of the state, of the year A. D. 1877.

Who shall be made parties to proceeding.

SEC. 6. In all cases when the partition of lands is sought, the heirs or devisees of deceased persons interested therein, shall be made parties to the proceeding; and if any person interested in such land, shall have been declared lunatic, insane, or distracted, the conservator of the estate of such lunatic, insane, or distracted person shall be made a party to the same, served with the process issued against such lunatic, insane, or distracted person, and it is made his duty to appear and to take such course therein, as will best protect the interest of the estate under his contract as conservator.

Conservator of estate to appear for insane, etc.

Approved February 5, 1881.

AN ACT

AMENDATORY OF AN ACT TO PROVIDE FOR THE MAINTENANCE, GOVERNMENT, AND POLICE OF THE PENITENTIARY; ALSO THE MODE OF APPOINTING OFFICERS AND FIXING THE SALARY OF THE SAME, AND TO REPEAL SEVERAL ACTS RELATING THERETO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section seven of an act to provide for the maintenance, government and police of the penitentiary; also the mode of appointing officers, and fixing the salary of the same, and to repeal several acts relating thereto, is hereby amended so as to read as follows: Sec. 7. The numbers [members] of the board of commissioners shall each be allowed the sum of four hundred dollars per annum

Salary of warden and commissioners penitentiary.

and mileage at ten (10) cents per mile for each mile necessarily traveled in the discharge of their duties; and the warden of the penitentiary the sum of twenty-five hundred dollars per annum, as full compensation for all the services required of them, payable quarterly; and the State Auditor is hereby authorized to draw his warrant for the same, upon the presentation of a certificate, signed by the president, and attested by the secretary of the board of commissioners.

Approved February 12, 1881.

AN ACT

MAKING APPROPRIATIONS FOR THE MAINTENANCE AND SUPPORT OF THE STATE PENITENTIARY FOR THE YEARS 1881 AND 1882.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That for the purpose of paying all expenses required for the maintenance and support of the state penitentiary, including salaries of officers and employés, and any and all other lawful expenses incurred therein during the years 1881 and 1882, there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of ninety thousand dollars, in addition to the unexpended balance remaining on hand from moneys received from convict labor, which balance is hereby transferred to this fund; and also in addition to all moneys received for convict labor during the years 1881 and 1882, which is hereby made a part of and shall be to the credit of this fund. Appropriation.

SEC. 2. Inasmuch as it will become necessary to draw upon this fund before the expiration of ninety days, there- Emergency.

fore, it is the sense of this General Assembly that an emergency exists; [therefore] this act shall be in force on and after its passage.

Approved February 12, 1881.

AN ACT

TO PROVIDE FOR THE SALE OF LANDS SET APART FOR THE USE OF THE PENITENTIARY OF COLORADO, AND TO PURCHASE OTHER LANDS FOR THE USE OF SAID PENITENTIARY.

Be it enacted by the General Assembly of the State of Colorado:

Sale of lands.

SECTION 1. The board of commissioners of the penitentiary of Colorado are hereby empowered to bargain, sell, and convey, all the right, title, and interest, of the State of Colorado, in, and to, a lot, piece, and parcel of land, consisting of seven acres, more or less, located south of said penitentiary, in Fremont county, in State of Colorado, the same being lands formerly set apart for the use of said penitentiary. Said board may sell, and convey said lands, in part, or as a whole, for the best price they can obtain, at private sale. The president of said board, in his official capacity, and upon the order of said board, may execute a deed, or deeds, in behalf of the State of Colorado, and under his private seal, to any grantee, or grantees. Such conveyance, executed in accordance with such order, shall have the effect to transfer to the grantee, or grantees named, all the estate of the state in the real estate so conveyed.

President to execute deed.

Purchase of lands.

SEC. 2. Said board are further hereby authorized to purchase a lot, piece, or parcel of land, for the State of Colorado, as granted, for the use of said penitentiary. Said lands so to be purchased shall not exceed seven

acres, and shall be lands on the same side of the street with the penitentiary, and adjoining the grounds of said penitentiary; *provided* that no greater price shall be paid for such lands so purchased than shall have been previously received for lands to be sold as aforesaid; and, *provided, further*, that any surplus moneys that shall be received for such lands so sold, and not expended for lands so purchased, shall be deposited by said board with the treasurer of the state as a special fund for the permanent improvement of said penitentiary. Proviso.

SEC. 3. Said board are further authorized to purchase, in behalf of the state, for the use of the penitentiary, twelve acres of land lying north and adjoining said penitentiary lands, in said Fremont county, for a sum not to exceed twenty-five hundred dollars. And for said last purchase money, said president shall draw an order, countersigned by the secretary of the board, on the Auditor of state, who shall issue a warrant to the treasurer of said board therefor on the State treasurer, to be paid out of any moneys appropriated for said purpose. Further purchase authorized. Manner of payment.

Approved February 16, 1881.

AN ACT

TO AMEND CHAPTER EIGHTY-FIVE OF THE GENERAL LAWS, ENTITLED "AN ACT TO PROVIDE FOR THE PUBLIC PRINTING AND PUBLISHING AND DISTRIBUTION OF LAWS OF THIS STATE."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one is hereby amended, so as to read as follows: After the thirty-first day of December, Maximum price for state printing, etc.

A. D. 1882, the maximum prices to be paid by the state for printing and binding shall be as follows:

1. For legislative bills, memorials, and resolutions, in lots of 240 copies or less, two dollars per page, stitching included, if required.

2. For straight composition on book work, English, Spanish, or German, fifty cents per 1,000 ems.

3. For rule and figure and tabular composition on book work, English, Spanish, or German, ninety cents per 1,000 ems.

4. For book paper, No. 2, twelve cents per pound.

5. For press work on book work, in forms of eight pages, one dollar per token of 240 impressions.

6. For folding and stitching or sewing book work, in sections of sixteen pages, or fractions thereof, one-half cent.

7. For binding in pamphlet form, covers included, four mills per section, if in eight-page sections, and five mills if in sixteen-page sections.

8. For binding book work in pasteboard, covered with paper, leather backs, lettered on back with ink, in addition to the pamphlet binding, thirty-five cents per volume.

9. For binding book work in cloth, gilt lettering on back, in addition to the pamphlet binding, thirty-five (35) cents per volume.

10. For binding [book] work in sheep, gilt titles on back, in addition to the pamphlet binding, seventy-five cents per volume.

11. For furnishing blank books, on best medium ledger, russia ends and bands, spring backs, plain record, two dollars per quire.

12. For furnishing blank books on medium ledger, russia ends and bands, spring backs, printed headings, two dollars and fifty cents per quire.

13. For printed letter heads on 12-pound paper, five dollars per 1,000.

14. For printed envelopes, XXX, No. 6, five dollars per 1,000.

15. For blanks, ruled and printed, one-quarter cap size, for the first hundred, three dollars and fifty cents; for each additional hundred, seventy-five cents; one-half cap size, for the first hundred, five dollars; for each additional hundred, one dollar. Full sheet cap, for the first hundred, seven dollars; for each additional hundred, two dollars; [the] Secretary [of State] to furnish suitable printed blank specifications for convenience of bidder.

Quality of stock; size of type, etc.

SEC. 2. The paper for blanks shall be of good quality, tub sized and loft dried, and if bond or ledger stock be required, the difference in cost shall be allowed the printer. Bills, memorials, and joint resolutions, and work of that nature, shall be set in small pica type, with reglet between the lines, and be printed on an average quality of 14-pound flat cap paper. Reports of State officers, the journals and laws, and all pamphlets, except tabular work, shall be set solid, in small pica type, with the side notes in nonpareil or agate type, and the Secretary of State shall be authorized to employ a practical printer to assist in measuring all state printing, whose compensation shall not exceed in any one year the sum of one hundred dollars. For any work not specified in section one of this chapter, the Secretary of State shall agree upon the price with the printer, or may get the same done wherever it can be obtained to the best advantage of the state.

Secretary to employ printer to assist in measuring.

Proposals, bids, etc.

SEC. 3. The Secretary of State shall, sixty days immediately preceding each biennial session of the General Assembly, advertise for four weeks successively, in two daily papers in the state, one of which shall be at the seat of government, inviting sealed proposals for doing all printing and binding required by the General Assembly, and by the several state departments for the two succeeding years, and such bids shall specify at what per cent. below the

maximum rates, severally prescribed in section one of this chapter, the bidder will perform the work and furnish the stock, and the bidder to whom the contract shall be awarded shall perform all legislative work at the seat of government.

Repeal.

SEC. 4. That section 8 of said act, and all other acts and parts of acts in conflict herewith, be, and the same are hereby repealed.

Emergency.

SEC. 5. It is the opinion of the General Assembly an emergency exists; therefore this act shall take effect [from] and after its passage.

Approved March 14, 1881.

AN ACT

TO REGULATE THE SETTLEMENT OF OVERCHARGES OF RAILROADS.

Be it enacted by the General Assembly of the State of Colorado:

Agent; appointment of, location of office, duties.

SEC. 1. Every railroad corporation, or the lessee, or receiver thereof, or other person operating the same, doing business in this state, shall, within three months after the passage of this act, have and keep an agent or other person residing and having his office in the principal city or town along its line, within the state, whose duty it shall be, and who shall be fully authorized by such railroad company to adjust and settle all claims for overcharge collected within this state, and for all loss or damage; and any railroad corporation, lessee, or receiver, or other person, so doing business in this state, which shall fail to have and keep such agent or representative, within such city or town as aforesaid, shall be subject to a penalty of three thousand dollars ($3,000) for each and every month during which said com-

Penalty of railroad company for failure to keep agent.

pany, lessee, receiver, or person shall fail to have and keep said agent, which said penalty shall be recovered by the Attorney-General for the use of the state, in an action commenced for that purpose in any court of competent jurisdiction of this state.

Overcharges; when and how paid.

SEC. 2. All overcharges made by any such railroad corporation, the lessee, or receiver thereof, or other person operating the same, and all claims for loss or damage as aforesaid, shall be paid by the representative of such railroad corporation, or the lessee, or receiver thereof, or other person operating the same, appointed as aforesaid, within sixty (60) days after the same shall have been duly presented to such representative or agent for settlement, accompanied by the expense bill of the freight on which such overcharge has been made or loss or damage suffered, together with a statement, properly verified, of the amount of such overcharge, loss, or damage; and if any such railroad corporation, or the lessee, or the receiver thereof, or other person operating the same, shall fail to refund the amount of such overcharge, loss or damage, within the time aforesaid, the person or corporation so suffering the same may recover from the railroad company, or the lessee, or the receiver thereof, or other person operating the same, so in default, the sum of one hundred dollars ($100) for each month and fraction of a month during which said company, or the lessee, or the receiver thereof, or other person operating the same, shall so be in default, which said sum may be recovered by the parties so aggrieved, or their assignees, in any court of competent jurisdiction; and in any suit brought under this section, service upon such agent or representative of said railroad company, or the lessee, or receiver thereof, or other person operating the same, shall be deemed and held proper service upon such railroad company, or the lessee, or the receiver thereof, or other person operating the same; *provided*, the claimant shall not recover such penalty unless he recovers a larger amount in a court than the sum tendered him by

Penalty for failure to settle overcharge or loss.

Service on company, how had.

Proviso.

such railroad corporation, agent, representative, lessee or receiver, or other person.

Approved February 8, 1881.

AN ACT

FOR AN ACT RELATING TO THE REPORTS OF THE OFFICERS OF STATE EDUCATIONAL AND REFORMATORY INSTITUTIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. It shall be the duty of the president of the state university, the president of the state school of mines, the president of the state agricultural college, and the principal of the mute and blind institute, to make a biennial report to the Superintendent of Public Instruction, on or before the first day of December of each year preceding the meeting of the General Assembly. These reports shall contain a history of the institutions reported for the two years; shall show the number of professors and teachers employed and the salary of each, the number of students in attendance each term, the number in each of the several departments, and any other items concerning the educational or financial condition of the respective institutions which the officers making the reports shall deem to be of public interest.

SEC. 2. It shall be the duty of the Superintendent of Public Instruction to publish the reports made in pursuance of this act, with his biennial report to the Governor: *Provided*, that he shall not publish more than ten printed pages for each institution.

Approved February 11, 1881.

AN ACT

TO MAKE AN APPROPRIATION FOR THE PAYMENT OF REWARDS OFFERED BY THE GOVERNOR OF THE STATE FOR THE APPREHENSION OF PERSONS CHARGED WITH THE CRIME OF MURDER, AND TO PROVIDE FOR THE MANNER IN WHICH SAID REWARDS SHALL BE PAID.

Be it enacted by the General Assembly of the State of Colorado:

Appropriation.

SECTION 1. That there be, and hereby is, appropriated out of any money in the state treasury not otherwise appropriated, the sum of two thousand dollars, or so much thereof as shall be necessary for the purpose of paying rewards offered by the Governor of the state, for the apprehension of persons charged with the crime of murder.

Requirements necessary to secure payment of reward.

SEC. 2. That whenever the Governor, by his proclamation, shall offer a reward for the apprehension of any such person or persons mentioned in the first section of this act, the person making such arrest shall deliver the person or persons so arrested to the sheriff of the county where such crime was committed; the said sheriff shall give to the person making such arrest and delivery, a certificate that he has delivered to the said sheriff the person or persons named in the proclamation of the Governor. The Governor shall indorse on said certificate his approval of the same and the amount of the reward so offered in his proclamation. On presentation to the Auditor of State, such certificate, so endorsed by the Governor, he shall draw his warrant on the State Treasurer for the amount so certified.

Emergency.

SEC. 3. Inasmuch as it may become necessary to draw upon this fund before the expiration of ninety days, it is the sense of this General Assembly that an emergency exists; therefore, this act shall be in force on and after its passage.

Approved February 12, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSMENT AND COLLECTION OF REVENUE, AND TO REPEAL CERTAIN ACTS IN RELATION THERETO" APPROVED MARCH 20, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section forty-four (44) of said act be, and the same is hereby amended so as to read as follows, to wit:

Auditor to transmit statement to county clerk.

On or before the first day of September in each year, the [State] Auditor shall transmit to the clerk of each county a statement of the changes, if any, which have been made in the assessments, and the rate of state tax which is to be levied and collected within his county; which, however, shall not exceed three mills on the dollar of the valuation, and when the board fixes no different rate, or, if for any reason the board fail to sit, or the county clerk should fail to receive the statement of the rate of tax ordered by them, that rate shall deemed to be levied; and the clerk of each county in making up the tax list required by this act shall compute and carry out in the proper column a state tax at the rate aforesaid; *provided, however*, that for the year 1881 and 1882 the rate of taxation shall be, for state purposes, four mills on the dollar, and for the purpose of establishing a fund for a capital building, one-half of one mill on the dollar, unless the state board of equalization shall fix a lower rate. Any clerk failing herein may be fined in any sum not less than five hundred nor more than three thousand dollars, to be recovered by action of debt in the name of the people of the State of Colorado, in any court of competent jurisdiction.

Rate of tax.

Rate for 1881 and 1882.

Penalty for failure to comply herewith.

Approved February 18, 1881.

AN ACT

TO PROVIDE A FUND FOR THE MAINTENANCE AND SUPPORT OF THE AGRICULTURAL COLLEGE OF COLORADO, THE COLLEGE FARM, AND FOR THE ERECTION OF SUCH BUILDINGS AS BY THE STATE BOARD OF AGRICULTURE SHALL BE DEEMED ADVISABLE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there shall be levied and assessed upon all taxable property, both real and personal, within this state, in the years 1881 and 1882, the following tax for the maintenance and support of the agricultural college, the college farm, and for the erection of such buildings as the state board of agriculture shall deem advisable, one-fifth of one mill on each and every dollar, to be known as the agricultural college tax, and to be assessed and collected in the same manner and at the same time as is now, or may be prescribed by law for the assessment and collection of state revenues. Levy.

Approved February 8, 1881.

AN ACT

TO PROVIDE FOR THE ASSESSING AND COLLECTING OF STATE REVENUE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That in all cases wherein county clerks have failed, from any cause whatever, in whole or in part, to compute and extend the taxes on the county tax rolls, for the years 1879 and 1880, for the mute and blind insti- County commissioners to cause deficiency for special funds paid from general fund.

tute, state university, agricultural college, school of mines, insane asylum, and military poll funds, according to the levies fixed by law for these several purposes, the county commissioners of any such county are hereby authorized, and required, to cause such deficiency to be paid into the state treasury, from the general county funds.

Duties of county treasurer.

SEC. 2. That any county treasurer of any county wherein such deficiency exists, shall, is his monthly report and remittance to the State Treasurer, include the full amount which should have been collected for the preceding month, belonging to the several funds aforesaid, according to the levies so fixed by law, making up the deficiency from the several county funds; and his receipt from the State Treasurer shall be his voucher for the proper disbursement of such county funds.

Penalty for failure of county clerk to extend taxes.

SEC. 3. That any county clerk failing, hereafter, to compute and extend the taxes for any state fund, according to the levy made by law for any such funds, shall be fined not less than five hundred (500) nor more than one thousand (1,000) dollars.

Emergency.

SEC. 4. That, inasmuch as each of the institutions named in the first section of this act is greatly in need of funds, it is the opinion of this General Assembly that an emergency exists; therefore, this act shall take effect from and after its passage.

Approved February 12, 1881.

AN ACT

TO REPEAL AN ACT ENTITLED "AN ACT CONCERNING ROADS AND HIGHWAYS IN PUEBLO COUNTY."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That an act of the council and house of representatives of Colorado Territory, entitled "an act concerning roads and highways in Pueblo county," approved February 7, 1876, be and the same is hereby repealed.

Approved February 11, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE SCHOOLS." APPROVED MARCH 20, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section three (3) of said act, (being section 2,449 of General Laws), be amended to read as follows, viz: "Sec. 3. The state board of education is hereby authorized to grant state diplomas to such teachers as may be found to possess the requisite scholarship and culture, and who may also exhibit satisfactory evidence of an unexceptional moral character and whose eminent professional ability has been established by not less than two years successful teaching in the public schools of this state. Such diplomas shall supersede the necessity of any and all other examinations of persons holding the same, by county, city

State diplomas, to whom issued, use of.

or local examiners, and shall be valid in any county, city, town or district in the state, unless revoked by the state board of education."

SEC. 2. That section four (4) of said act, (being section 2,450 of General Laws), be repealed, and in place thereof the following be enacted, viz: "Sec. 4. But state diplomas shall only be granted upon public examination, of which due notice shall be given, in such branches and upon such terms, and by such examiners as the Superintendent of Public Instruction, the president of the state university, the president of the state agricultural college and the president of state school of mines may prescribe."

State diplomas only granted upon public examination.

SEC. 3. That section eight (8) of said act, (being section 2,454 of General Laws), be amended to read as follows, viz: "Sec. 8. He shall have an office at the seat of government, where shall be kept an official seal, and all books and papers appertaining to the business of his office. He shall file all papers, reports and public documents transmitted to him by the school officers of the several counties, each year separately, and hold the same in readiness to be exhibited to the Governor, or to any committee of either house of the General Assembly. Copies of all papers filed in his office, and his official acts may be certified by him, and when so certified, shall be evidence equally and in like manner as the original papers. He shall prepare lists of questions for the use of county superintendents at the quarterly examinations of teachers, and make such suggestions concering their use as shall tend to secure uniform examinations in the different counties, and he may call to his aid in the preparation of said questions such assistance as he may deem proper."

State superintendent to keep office, where.

Duties.

SEC. 4. That section sixteen (16) of said act, (being section 2,462 of General Laws), be amended to read as follows, viz: "Sec. 16. The certificates issued by the county superintendents shall be of three grades, distinguished as first, second and third. The first grade certificate shall be

Grades of certificates issued by superintendent.

valid for two years; the second grade for one year; the third grade for six months. A county superintendent may renew a certificate of the first grade by endorsing such renewal thereon, and may revoke the same at any time, for immorality, incompetency or other just cause. It shall be deemed a violation of law to grant a certificate of either of the above named grades without first examining the candidate thoroughly in all the branches, as specified in section fifteen of this act, and in such examination, he shall use the questions prepared for that purpose by the superintendent of public instruction; *provided, however*, that a certificate of the third grade shall not be refused because of the failure of the applicant in the elements of the natural sciences. The superintendent may, however, upon satisfactory evidence of competency, issue a temporary certificate, which shall be valid only until the next regular examination, at which time the holder of such temporary certificate shall appear for a complete examination as aforesaid. It shall not be lawful to renew a temporary certificate nor to grant a second one to the same person. The superintendent shall keep an official record, in a suitable book, of the persons so examined, containing the name, age, nationality, date of examination, and grade of certificate issued."

Renewals.

Temporary certificate.

Superintendent to keep record of examinations.

SEC. 5. That section twenty-seven (27) of said act, (being [section] 2,473 of General Laws,) be amended to read as follows, viz: "Sec. 27. For the purpose of organizing a new district out of a portion of one or more old districts, the parents of at least ten children of school age residing within the limits of the proposed new district shall petition the county superintendent in writing, which petition shall describe the boundaries of the proposed district, and the names of all children of school age residing in such proposed district at the date of said petition; and said list of names shall be held to be the census list of said district until the next regular census shall be taken; and if any names are found on said list, and also on other census lists for the current year,

Division of districts.

List of names.

if the county superintendent is satisfied [that] the children so named are bona fide residents of the proposed district, he shall strike such names from the lists of the old districts, when the organization of the new district is complete. If, in the judgment of the county superintendent, the school interests of the districts affected by the proposed change will be best promoted by said change, he shall direct some one of the petitioners, who is a legal voter, to notify each elector residing within the district so to be formed, by personal service as far as convenient, and to post a notice in three public places in said new district, that such petition has been made, and that a meeting will be held, naming the time and place of such meeting, to determine the question of the proposed organization. People living upon unorganized territory may organize themselves into a school district at any time, without a petition, if a majority of the local [legal] voters residing within the proposed district shall so decide at a meeting of which reasonable notice has been given to all resident voters, and which meeting shall be conducted as is now provided by law for the organization of new districts: *Provided*, that in addition to the copy of the proceedings now required by law, the secretary shall also transmit to the county superintendent a certified list of all children of school age who are residents in good faith in said district at the date of the organization, which list shall be held to be the census list of said district until the next regular school census."

Notice of meeting

New district from unorganized territory.

SEC. 5. [SEC. 6.] That section fifty-two (52) of said act, (being section 2,498 of General Laws), be amended to read as follows, viz: "Sec. 52. The president, when present, shall preside at all meetings of the board and of the district; shall sign all orders on the county treasurer for the payment of money; *provided*, that no orders shall be drawn upon the county treasurer except in favor of parties to whom the district has become lawfully indebted. He shall appear in behalf of his district in all suits brought by or against the same, but when he is

Duties of president.

individual [individually] interested, this duty shall be performed by the secretary, and in the absence of the president, the secretary shall preside at board and district meetings. Absence from the district, of any school officer, when prolonged beyond thirty consecutive days, may be held to work a vacancy in said office, which may be filled according to law."

SEC. 7. That section fifty-five (55) of said act, (being section 2,501 of General Laws), be amended to read as follows, viz: "Sec. 55. The secretary shall keep an accurate account of the expenses incurred by the district, and shall present the same to the board whenever called upon. He shall give the required notice of all regular and special meetings, as herein authorized. On or before the tenth day of September of each year he shall make out and file in the office of the county superintendent, a report of the affairs of his district. Said report shall be made upon blanks prepared by the Superintendent of Public Instruction, containing such items of information as the said superintendent shall require, including the following:

Secretary to keep accounts.

Give notices.

Annual report.

First—The number of persons, male and female, each, in his district, between the ages of six (6) and twenty-one (21) years.

Items of report.

Second—The number of schools, and the branches taught in each.

Third—The number of pupils in each school.

Fourth—The number of teachers employed in each school, and compensation of each per month.

Fifth—The number of days the school was taught during the year then past, and by whom.

Sixth—The number of pupils enrolled during the year, the average daily attendance.

Seventh—The average cost of school per month for each pupil, based upon the total enrollment, and also the average cost based upon the average daily attendance. In

estimating these averages, the secretary shall take account of teachers' wages, all current expenses, and eight per cent. interest upon a fair valuation of all property belonging to the district.

Eighth—Texts [text] books used in each school.

Ninth—The number of volumes in the library of each school.

Tenth—The aggregate amount paid teachers during the year, and the average monthly pay of teachers.

Eleventh—The number of public school houses, and the estimated value of each.

Twelfth—The amount raised in the district, by tax, for the erection of such houses.

Thirteenth—The amount raised by subscription, or by other means than by tax.

Fourteenth—The amount of special tax levied for the support of schools.

Fifteenth—The amount of money on hand at the beginning of the year then past.

Sixteenth—The amount of money received from all other sources than those herein specified.

Should the secretary fail to file his report, as above directed, he shall forfeit the sum of one hundred (100) dollars, and shall make good all loss resulting to the district, from such failure."

SEC. 8. That section fifty-seven (57) of this [said] act, (being section 2,503 of General Laws), be amended to read as follows, viz: "Sec. 57. It shall be the duty of the treasurer to countersign all warrants drawn by the president and secretary on the county treasurer, in favor of parties to whom the district has become lawfully indebted, and to keep an account of the same. He shall take charge of all moneys received by him on account of the district from the county treasurer, as provided in sections ninety-one and ninety-two of this act, and pay out the same as therein pro-

Duties of treasurer.

vided. He shall render a statement of the finances of the district, as shown by the records of his office at the close of each school year, and at any other time when required by the board. For a failure to perform any of the duties of his office when directed by the board, or for refusing or neglecting to deliver to his legally qualified successor all money, books or other district property in his possession or care, within ten days after the same shall have been demanded by such successor, he shall be liable on his bond, and shall make good a loss resulting to the district from such failure or neglect." Penalty.

SEC. 9. That section sixty (60) of said act, (being section 2,506 of General Laws), be amended to read as follows: "Sec. 60. The principal teacher of every public school in this state shall, at the commencement of such school, notify the county superintendent of such commencement, and at the expiration of each term of service furnish a complete report to the school board of his district, verified by affidavits, showing the length of the school term, in days actually taught, including national holidays that occur during the weekly sessions; the number of teachers employed, male and female; the number of pupils enrolled during the term, distinguishing between males and females; the average daily attendance; branches pursued and texts [text] books used. Besides such term records and reports, the principal teacher shall keep a registry in a suitable book, which shall be furnished by the board, which shall show, alphabetically arranged, males and females separately, the name, age, parent or guardian, date of enrollment, number of days' attendance during each term, and total number of days' attendance of each pupil during each school year, beginning September first (1st). The affidavit above mention [mentioned] may be taken by the president of the school board: *Provided*, that in graded schools the subordinate teachers shall make such reports to the principal or superintendent of such school, who shall forward to the district secretary an abstract of

Principal to notify county superintendent of commencement.

Furnish sworn report; items of same.

Keep register; items of same.

Assistant's report to principal.

such reports, and until such reports shall have been filed, and such yearly registry made, the president shall not draw his warrant for the last month's salary of the teacher. It shall be the duty of each successive teacher to keep the said annual register, as above specified, for the time that such teacher has charge of the school, and the teacher who shall be in charge at the close of the last term of each school year shall include in the annual report all statistics from the school register for the entire school year, notwithstanding any previous report for a part of the year."

Annual report to include statistics for full year.

SEC. 10. That section sixty-six (66) of said act, (being section 2,512 of General Laws), be amended to read as follows, viz: "Sec. 66. On or before the day designated by law for the commissioners of each county to levy the requisite taxes for the then ensuing year, the school board in each district shall certify to the county commissioners the number of mills per dollar which it is necessary to levy on the taxable property of the district, to raise the said special fund, and the commissioners shall cause the same to be levied at the same time that other taxes are levied, and the amount of such special tax which shall be assessed to each tax payer of such district, shall be placed in a separate column of the tax book, which shall be headed 'special school tax;' *provided*, that a school board of a district of the third class shall not certify as above to a higher rate than two mills per dollar, unless instructed to do so by a vote of their district. There shall also be a column in said tax book in which shall be designated the number of the school district in which the property is listed. This tax shall be collected in cash only, and placed to the credit of the proper district, as fast as collected, and the amount placed to the credit of each district, shall be reported to the president of such district at the end of every month, and shall be subject to the order of the district board. It is hereby made the duty of the county assessor and county treasurer to so arrange

School board to notify county commissioners of amount of levy.

How levied.

Separate column for each district.

Cash only.

Assessor and county treasurer to arrange books.

their tax schedules and books as to conform to the above provisions; *provided*, that the county assessor shall list all property, both real and personal, in the school district in which the same may be at the time any school tax may be levied; and, *provided, further*, that the board of any district of the first or second class may order the levy of not to exceed one-tenth of one mill, the proceeds of which shall be used exclusively in the purchase of books for a library, to be open to the public, under such rules as the district board may deem needful for the proper care of the said library." When property is listed.

SEC. 11. Whereas, in the opinion of this General Assembly an emergency exists; therefore this act shall be in force from and after its passage. Emergency.

Approved March 1, 1881.

AN ACT

TO REPEAL SECTION SIX OF CHAPTER NINETY-ONE (91) OF THE GENERAL LAWS OF COLORADO CONCERNING THE "SCHOOL OF MINES," AND TO ENACT A SECTION IN LIEU THEREOF, TO BE KNOWN AS SECTION SIX OF SAID CHAPTER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section six of chapter ninety-one of the General Laws of Colorado, is hereby repealed, and the following shall stand in place thereof and be known as section six of said chapter: "Sec. 6. The said school of mines shall have for its object, to furnish such instruction as is provided for in like technical schools of a high grade, and may, by its board of trustees, confer all degrees appropriate to the courses of study pursued."

Approved February 12, 1881.

AN ACT

TO PROVIDE A FUND FOR THE SUPPORT OF THE SCHOOL OF MINES, LOCATED AT GOLDEN, COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That to provide a fund for the support and maintenance of the state "School of Mines," located at Golden, there shall be assessed and levied annually upon all taxable property in this state the following tax, to wit: One-fifth (1-5) of one mill on each dollar of the yearly assessed value of such property, which shall be known as the "School of Mines" tax, and shall be levied and collected at the same time and in the same manner provided by law for the assessment and collection of state taxes.

SEC. 2. The fund aforesaid shall be used for the support and maintenance of the state school of mines, located at Golden, and for no other purpose.

Approved February 4, 1881.

AN ACT

AUTHORIZING THE SALE OF THE OLD SCHOOL OF MINES BUILDING AND GROUNDS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The board of trustees of the school of mines building and is empowered and directed to convey the title to the grounds formerly occupied by said school to the proper officers of the state industrial school, for the use of said institution without charge for the same.

Approved February 12, 1881.

AN ACT

TO AMEND "AN ACT RELATING TO THE POWERS AND DUTIES FO THE STATE BOARD OF LAND COMMISSIONERS, AND THE MANAGEMENT OF THE STATE LANDS, AND DEFINING THE DUTIES OF THE SECRETARY OF THE BOARD," APPROVED FEBRUARY 10, 1879.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section six of said act is hereby repealed and the following shall stand in lieu thereof as section six: Term of lease and annual rental.

"No lease of any state or school lands shall be for a longer term than twenty years without a re-appraisement; *provided*, that the state board shall have power to provide by the terms of the lease for a reappraisement every five years as they shall deem best for the interest of the state. The lessee shall pay the annual rental to the State Treasurer, who shall receipt for the same on the lease and shall also give a duplicate receipt to be filed with the Auditor of State; *provided*, that in case building or limestone, coal or other mineral be found upon state or school lands, such lands may be leased in suitable tracts conditioned upon the payment to the state of such royalty on the product or yield of such quarry or mine, as may be fixed by the state board.

Approved February 18, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE SELECTION, LOCATION, APPRAISAL, SALE AND LEASING OF STATE LANDS."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section twenty-seven (27) of article four (4) of an act to provide for the selection, location, appraisal, sale and leasing of state lands, approved March 17, 1877, is hereby repealed, and the following enacted in lieu thereof: Sec. 27. School lands, known as sections sixteen (16) and thirty-six (36), or any part thereof, situated within or adjacent to any organized city or town, or any addition to a city or town, may be surveyed and laid off by order of the state board of land commissioners, in blocks and lots, streets, alleys, avenues, highways, or public squares, to conform to the legal subdivisions of such city or town; and the state board of land commissioners shall cause correct maps and plats of such lands to be made and recorded. When so surveyed and platted, and when said lots shall have been appraised and notice of sale given, as prescribed in sections twenty-four (24), twenty-five (25), and twenty-six (26), of this act, the state board of land commissioners may, in its discretion, sell the same at public auction to the highest bidder; *provided*, that if the city council or board of trustees, of any such city or town, to which school lands lie adjacent, as above described, shall request the state board of land commissioners, to have such school lands appraised, then the state board of land commissioners shall have the lands appraised as prescribed in section twenty-four (24) of this act; and it shall be lawful for such city or town to purchase said school lands, or any part thereof, not exceeding one-half (½) section, for the erection of schools or public buildings, for parks or for any other public purposes, and the same shall be offered

Sales of school lands situated within or adjacent to city or town.

at public sale as provided in this act, and the duly authorized agent of such city or town may attend the sale and bid for said lands, and if such agent shall make the highest and best bid therefor, in behalf of such city or town, the said lands shall be struck off to said city or town, subject to the approval of the city council or board of trustees and the payment therefor as provided, and if the said lands be not sold to such city or town then the same may be struck off to the highest and best bidder therefor, subject to the approval and confirmation of the state board of land commissioners. The request of any city or town for the sale of lands as aforesaid, shall give the description of the land, the sale of which is requested, and the same shall be offered in one tract.

Approved February 12, 1881.

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE STATE BOARD OF LAND COMMISSIONERS IN THE MANAGEMENT, LEASE AND SALE OF THE STATE LANDS, AND THE DUTIES AND PAY OF THE SECRETARY OF SAID BOARD.

Be it enacted by the General Assembly of the State of Colorado:

Secretary of state board land commissioners; duties, salary, bond.

SECTION 1. It shall be the duty of the secretary of the state board of land commissioners to keep the records of the state land office; to make out and countersign all patents and leases issued by the Governor to purchasers and lessees of state or school lands, and to keep a suitable record of the same; to file and preserve the bonds given by lessees, and also those given by purchasers, as security for the deferred payments; to make and deliver to purchasers suitable certificates of purchase; to have the cus-

tody of the seal of the state board; to keep the minutes of the board, and to perform such other duties in connection with the land affairs of the state, as the board may direct. He shall be provided with a suitable office, office furniture, stationery, and postage, by the Secretary of State, and he shall be paid a salary of twelve hundred dollars per annum. The secretary of said board shall give bond in the sum of five thousand (5,000) dollars, conditioned for the faithful discharge of his duties, said bond shall be approved by the State Treasurer and deposited with him.

Meetings of board.

SEC. 2. The regular meetings of the state board of land commissioners shall be held on the first Wednesday of January, April, July and October, respectively, in the office of the secretary, and other meetings may be held at such times and places as the board may determine.

Failure to pay annual rental to forfeit lease.

SEC. 3. Leases of state and school land shall be conditioned upon payment of the rent annually in advance, and the violation of this condition shall work a forfeiture of the lease, after thirty days' notice to the lessee at the option of the state board of land commissioners.

Renewal of lease; conditions.

SEC. 4. When any lease shall expire by limitation, the holder thereof may renew the same upon the conditions specified below, viz:

Ninety days before such expiration, the holder thereof shall notify the secretary of the state board of his desire to renew. The secretary shall thereupon notify the county superintendent to appoint one appraiser for the land upon which the lease is about to expire; the leaseholder shall appoint a second, and these two a third. The board thus constituted, or a majority of them, shall appraise the said land according to the best of their judgment, and return their appraisement under oath to the secretary of the state board; *provided*, that no such appraisement shall be for a less valuation than that upon which the existing lease is based. If the leaseholder shall deposit with the secretary aforesaid a suitable bond and one year's rent, on or before the expiration of his lease, a new lease shall issue, based

Proviso.

upon the new appraisement; *provided*, that the state board may fix the valuation for the renewal of the lease upon grazing lands; *and provided, further*, that any leaseholder not wishing to renew his lease, shall be allowed to remove, or otherwise dispose of his improvements, on or before the expiration of his lease: and, *provided, further*, that after one renewal of the lease, it may and shall be in the discretion of the state board of land commissioners to refuse to renew said lease for any further time, if the state board of land commissioners deem it for the best interests of the state to sell said lands.

Deposits of applicants for leases, where deposited, etc.

SEC. 5. All moneys deposited by applicants for leases shall be in the custody of the State Treasurer while the application is pending, and shall be returned by him to the said applicant in case the application be denied, but if the application be granted, the treasurer shall then receipt for the money in due form and enter the same upon his books.

Occupancy without lease, deemed unlawful detainer.

SEC. 6. Any person or persons occupying state or school land, without lease, after the passage of this act, shall be guilty of unlawful detainer of such premises, and may be proceeded against for possession as other cases are prosecuted under the statute in such cases made and provided.

Sales.

SEC. 7. The state board of land commissioners may, at any time, direct the sale of any of the lands belonging to the state, except the school lands, at public auction, in such parcels as they shall deem most for the interest of the state, and for the promotion of the settlement thereof, but each lot of forty acres shall be exposed for sale separately. Every such sale shall be advertised in four consecutive issues of some weekly newspaper of the county in which said land is situated, if there be such paper, if not, then in some paper published in an adjoining county. The said advertisement shall state the time, place, and terms of sale, and the minimum price per acre, fixed by the board, of each lot of forty acres, below which no bid shall be entertained. If any lots remain unsold after such public sale,

the state board may sell the same at private sale, at not less than the minimum price aforesaid.

Sale of lands conditioned upon construction of ditches.

SEC. 8. For the purpose of encouraging cultivation and the making of irrigating ditches, the state board of land commissioners are hereby authorized to sell at public sale, at not less than the appraised value, [not more] than one-half of any tract of arid land belonging to the state, except the school land, in alternate quarter sections as near by as may be, to any responsible person or corporation, on condition that said person or corporation dig an irrigating ditch in such location, and of sufficient capacity to furnish water for the entire tract. All contracts for the sale of state lands under the provisions of this section, shall be drawn by the Attorney-General, and signed by the Governor, and the secretary of the board, in behalf of the state, and by the other parties in interest, and in no case shall the titles to any of said lands pass from the state, until such ditch is completed in a manner satisfactory to the state board, and the purchasers have given, in addition to such price as may be fixed by the state board, a suitable contract or agreement, secured by a sufficient bond, that they will furnish water for the remaining portion of the tract of land as aforesaid, at not to succeed [exceed] such rates as the state board may agree. Upon the fulfillment of the above conditions, patent may issue for not more than one-half of said tract, and the remaining portion of said tract may be subsequently disposed of in the same manner as other state lands.

Repeal.

SEC. 9. All provisions of existing laws inconsistent with the provisions of this act, are hereby repealed.

Emergency.

SEC. 10. Whereas, in the opinion of this General Assembly, an emergency exists; therefore, this act shall be in force from and after its passage.

Approved February 18, 1881.

AN ACT

TO REVISE, CORRECT, ANNOTATE AND PROPERLY INDEX THE LAWS OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

Governor to appoint commissioner.

SECTION 1. The Governor shall select one person learned in the law as commissioner to revise all the Statutes of the State of Colorado, general or permanent in their nature, which shall be in force at the time such commissioner may make his final report.

Duties of commissioner.

SEC. 2. That in performing this duty, the commissioner shall revise, simplify, annotate, properly index and consolidate all statutes and parts of statutes, which from similarity of subject ought to be brought together; and he shall arrange the same under titles, chapters and sections, or other suitable divisions and subdivisions, with head notes and side notes, briefly expressive of the matter contained in such divisions, and any decisions of courts thereon; and he shall prefix or annex a full and complete index for easy reference to any portions thereof.

Commissioner to report to secretary of state.

SEC. 3. The statutes so revised and consolidated shall be reported to the Secretary of State, within such time as will enable the said secretary to print and lay the same before the General Assembly upon the first day of the next regular session thereof, and the said secretary shall thereupon cause a sufficient number thereof to be printed for the use of the General Assembly.

Secretary to have published.

Pay of commissioner.

SEC. 4. Said commissioner selected to perform the labor of revision, etc., shall upon completion of said work of revising and consolidating the statutes to the satisfaction of the Secretary of State and Attorney-General, receive as compensation the sum of three thousand dollars, to be paid out of the moneys in the treasury not otherwise appropriated.

Approved March 14, 1881.

AN ACT

TO AMEND AN ACT ENTITLED "AN ACT REGULATING THE BRANDING, HERDING AND CARE OF STOCK," CHAPTER NINETY-SIX OF THE GENERAL LAWS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section one of an act regulating the branding, herding and care of stock, approved March 17, 1877, be and the same is hereby repealed, and the following shall stand as said section one: No person shall take up an estray animal, except in the county where he resides, and is a householder, nor unless the same be found in the vicinity of his residence. When any person shall take up an estray, he or she shall, within five days after taking up such estray, make out a written description of such animal or animals, as the case may be, setting forth all marks or brands apparent, and other marks of identity, such as color, age or size, and present the same to the county clerk of the proper county, who shall endorse thereon the date of presentation of the same, and return one copy to the taker up, and the copy he shall place upon record in the estray book. After filing such notice, it shall be lawful for said taker up to herd and take charge of said stock until the same shall be claimed and proved, and taken in charge by the owner thereof, or his duly authorized agent. The county clerk shall be entitled to twenty-five cents from the party presenting the same for recording each certificate of estray, and five cents per head for each additional number more than one, contained in said certificate; and the taker up of said estray shall be entitled to twenty-five cents for each original certificate of description, with ten cents per head for each additional number more than one, contained in said certificate, and mileage to and from the clerk's office, at the rate of ten cents per mile: *Provided*, That if the animal so taken up is a horse, mare, mule or colt, it shall not be lawful for the taker up to so take charge

Duties of person taking up estrays.

Fees of county clerk.

Pay of taker up.

Appraisement.

of the animal or animals as hereinbefore provided, except he have the said animal or animals appraised by two householders, who shall be sworn before a justice of the peace, or any other person qualified to administer oaths; said appraisers to receive one dollar and fifty cents each for services as such, said fees to be paid by the taker up; said appraisement to be entered on the estray book at the same time, and as part of the original description as aforesaid; *provided, further*, that it shall not be lawful for the taker up of an animal or animals to so take charge of them as hereinbefore provided, except he or they cause to be published within forty days of the time of such taking up, a copy of the original notice as entered upon the estray book; such publication to be for four consecutive weeks; all estray notices to be published in the same paper for the current year; said paper to be located at the capital, and to be designated by the state stock association, or in lieu thereof, by the Secretary of State. In the event of a change being made in the paper so selected, thirty days' notice shall be given by the paper then publishing said notices. All expenses of said publication shall be paid by the taker up, and by him collected the same as other costs and charges as hereinafter provided.

Pay of appraisers.

Publication of estray notice.

Expense of publication, how paid.

Approved February 11, 1881.

AN ACT

TO AMEND SECTION THREE (3) OF AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED 'AN ACT PROVIDING FOR THE PAYMENT FOR STOCK KILLED BY RAILROADS OR RAILWAY COMPANIES,' APPROVED FEBRUARY 9, 1872, AND TO ENACT OTHER PROVISIONS THERETO."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section three of an act entitled "an act

to amend an act entitled an act providing for the payment of stock killed by railroads or railway companies, approved February 9, 1872 and to enact other provisions thereto," approved March 17, 1877, is hereby amended so that the same shall read as follows: Sec. 2. [Sec. 3.] If the owner of any animal or animals so killed, or his or her authorized agent shall make affidavit before some officer authorized to administer oaths, that he or she was the owner or authorized agent of the owner of the recorded brand found upon the animal or animals so damaged or killed, at the time of such killing or damaging, and such person shall, within six months after such killing or damaging, deliver such affidavit to the agent or any officer of such company or corporation together with a certificate of his or her mark or brand, under official seal of the county clerk of the county in which such person resides, or shall make affidavit that the animal damaged or killed as aforesaid had no recorded mark or brand, and that he or she is the owner of such animal (describing it), and the corporation or company shall pay to such person delivering such affidavit and certificate, or such affidavit last aforesaid, as follows:

Affidavit of ownership and certificate of brand.

Schedule of payment.

SCHEDULE.

Texas yearlings	$ 7 00
Texas two (2) years old	12 00
Texas three (3) years old and over	15 00
American yearlings	10 00
American two (2) years old	18 00
American three (3) years old and over	25 00
American work cattle	25 00
American sheep, each	2 50
Mexican sheep or goats, each	1 50

All half-blood Texan, Mexican and American cattle shall be counted as Texas cattle, and all three-quarter (¾) blood American cattle shall be considered American cattle. Thoroughbred cattle, milch cows, high grade cows and grade bulls shall be paid for at their cash value.

Thoroughbred sheep shall be paid for at their cash value. Horses, mules and asses shall be paid for at their cash value: *Provided*, that no railroad company shall at any time be required to pay more than the market value of any animal killed or damaged. In all cases where such railroad company or corporation shall kill any of the stock mentioned in this act, and for which no price or sum is fixed, the owner or agent of such stock shall, after the filing of such affidavit and certificate of brand or affidavit of ownership as aforesaid, select some disinterested freeholder of the county where such killing took place, and shall notify such company or corporation of said selection, and such company or corporation shall within three days thereafter, select some suitable person to act with the person so selected, and the two so selected shall select a third, and the three so selected shall without delay proceed to appraise the value of the stock so killed, a majority of which three appraisers shall be sufficient to determine the same, and shall certify under oath such appraisement to an agent or superintendent of such company or corporation. In case such railroad or corporation shall refuse or neglect to appoint such appraisers, it shall be the duty of the justice of the peace nearest to the place where such stock is so killed, to select three disinterested persons as appraisers, and administer to them an oath to honestly appraise the value of such stock, which appraisers shall without delay appraise and forward to such justice the result of such appraisement; which justice shall within ten (10) days thereafter forward to an agent or superintendent of such railroad or corporation a certificate of the result of such appraisement and the costs thereof; and such railroad or corporation shall, within thirty (30) days after the receipt of such certificate, pay to the owner of the stock so killed, or his or her agent, the amount of such appraisement together with all the costs as aforesaid; and in all cases where the value of such stock is established by this act, such company or corporation shall pay for such stock within thirty

Selection of appraisers.

Appraisment to be certified under oath.

Procedure in case of neglect of R. R. company to appoint appraiser.

Justice to forward certificate of appraisement to R. R. company.

When company to make payment.

(30) days after the delivery of the affidavit and certificate of ownership of brand or affidavit of ownership of stock. And all persons selected or appointed under this section shall receive the sum of one dollar, to be paid by said railroad company or corporation as hereinbefore provided.

Pay of appraisers.

Approved February 11, 1881.

AN ACT

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE BRANDING, HERDING, AND CARE OF STOCK, AND TO REPEAL CERTAIN ACTS IN RELATION THERETO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The districts herein constituted shall be called round-up districts, and their several limits shall be as follows:

District No. 1.

SEC. 2. District number one: Commencing at a point where the state line crosses the Arkansas river, thence up said stream to the mouth of the Purgatoire, thence up the latter stream to Smith's cañon, thence up said cañon to its head, thence down Carrijo creek to the state line, thence east to the southeast corner of the state, thence north to the place of beginning.

District No. 2.

SEC. 3. District number two: Commencing at the mouth of the Purgatoire, thence up the Arkansas to the mouth of the St. Charles, thence up the latter stream to the east line of Custer county, thence south to the north line of Huerfano county, thence westerly on said line to the west boundary of the county, thence on said boundary to the north boundary of Las Animas county, thence on the latter boundary to the Purgatoire, thence down said stream to the place of beginning.

SEC. 4. District number three: Commencing at the mouth of [the] St. Charles, thence up the Arkansas to Grape Creek; thence along the eastern slope of the Wet Mountains to the St. Charles; thence down said stream to the place of beginning. District No. 3.

SEC. 5. District number four: Commencing at the southeast corner of Custer county, thence along the southern and western boundary of said county to the boundary of Fremont county; thence along the west boundary of the latter county to the Arkansas river; thence down the Arkansas to Grape creek; thence along the line of district number three to the place of beginning. District No. 4.

SEC. 6. District number five shall be limited by that part of Las Animas county lying west of the point where Carrijo creek crosses the southern boundary of the state. District No. 5.

SEC. 7. District number six: Commencing where the east line of Pueblo county crosses the Arkansas; thence up said river to Cañon City; thence northerly along the base of the mountains to the north line of El Paso county; thence east on said line to the northeast corner of the county; thence south to place of beginning. District No. 6.

SEC. 8. District number seven: Commencing at the northeast corner of El Paso county, thence south to the Arkansas, thence down said river to the east line of the state; thence north to the dividing ridge between the Republican and the Big Sandy; thence westerly along said ridge to Cedar Point, thence to River Bend; thence up the Sandy to place of beginning. District No. 7.

SEC. 9. District number eight: Commencing at River Bend, thence westerly on the line of the Kansas division of the Union Pacific railway to the Platte, thence up said stream to the mountains, thence southly along the base of the mountains to the north line of El Paso county, thence east along said boundary to the head of the Sandy, thence down the Sandy to the place of beginning. District No. 8.

District No. 9. SEC. 10. District number nine: Commencing on the Platte, at the mouth of Sand creek, thence down the former stream to the mouth of Bijou, thence up the Bijou to Deer Trail, thence westerly along the line of the Kansas division of the Union Pacific railway to Sand creek, thence down said creek to place of beginning.

District No. 10. SEC. 11. District number ten: Commencing at the mouth of Bijou, thence up said creek to Deer Trail, thence on a direct line to Agate Station, thence to Cedar Point, thence along the dividing ridge between the Republican and Big Sandy to the east line of the state, thence north on said line to the Platte, thence up said stream to the place of beginning.

District No. 11. SEC. 12. District number eleven: Commencing at the mouth of Lodge Pole creek, on the Platte, thence up the latter to the mouth of the Cache-la-Poudre, thence up the Cache-la-Poudre to the north line of the state, thence east on said line to the place of beginning.

District No. 12. SEC. 13. District number twelve: Commencing at the mouth of the Cache-la-Poudre, thence up the Platte to Brighton, thence along the line of the Boulder Valley railway to Boulder City, thence along the base of the mountains to the Cache-la-Poudre, thence down said stream to the place of beginning.

District No. 13. SEC. 14. District number thirteen: Commencing at Cañon City, thence along the easterly base of the mountains to the first correction line south, thence west on said line to the west line of Park county, thence on said line to the line of Fremont county, thence on the west line of said county to a point where it intersects with the Arkansas river, thence down said river to the place of beginning.

District No. 14. SEC. 15. District number fourteen shall be limited by the limits of Lake county.

District No. 15. SEC. 16. District number fifteen shall comprise that part of the San Luis valley lying north of the Rio Grande and the Denver and Rio Grande railway.

SEC. 17. District number sixteen shall be bounded as follows: Commencing at Del Norte, thence down the Rio Grande to Alamosa, thence along the Denver and Rio Grande railway to the east line of Costilla county, thence south on said line to the state line, thence west on said state line to the west line of Conejos county, thence north on said line to the north line of the county, thence to Del Norte on a direct line. District number seventeen shall be limited by the limits of La Plata county. District No. 16. District No. 17.

SEC. 18. The Governor shall appoint three commissioners for each district, on or before the first day of March of each year, to be known as round-up commissioners, and who shall be actual owners of cattle running upon the range within the district for which they are appointed. Said commissioners, or a majority of them, shall have power and may, on or before the first day of April of each year, arrange the programme for the annual spring round ups, fix the time of their commencement, appoint the foreman and remove the same for incompetency, neglect of duty, or other cause which by them shall be deemed sufficient. Round-up commissioners; appointment, qualification, powers.

SEC. 19. The Governor shall appoint, on or before the first day of May of each year, five commissioners, from different sections of the state, to be known as the board of inspection commissioners. No person who is not the actual owner of cattle upon the public range shall be eligible to serve on said board. Said commissioners shall each take and subscribe to an oath conditioned upon the faithful performance of his duties as commissioner, which oath shall be filed in the office of the Secretary of State. A majority of the board shall constitute a quorum to do business. Inspection commissioners; appointment, qualification, oath, quorum.

SEC. 20. It shall be the duty of said board to employ competent cattle inspectors, not exceeding eight in number at any one time, and to distribute them at such points, either within or without the boundaries of the state, as will, in their judgment, most effectually prevent the illegal Duties of board of inspectors.

slaughtering or shipping of cattle. They shall also furnish each inspector with a list of all brands sent to them for that purpose and owned by residents of this state. All inspectors, while thus employed, shall be subject to such reasonable rules and requirements as the board may prescribe, and shall be subject to dismissal by the board at any time. Said inspectors shall each receive not to exceed the sum of one hundred dollars per month during their time of actual service, and the auditor shall draw his warrant therefor upon bills approved by the board of inspection commissioners, and the treasurer shall pay the same out of the inspection fund.

Compensation of inspectors.

Levy.

SEC. 21. There shall be levied and assessed upon the assessed value of all taxable property in the state, in each year, one-fifteenth of one mill on each and every dollar thereof, to be known as the inspection tax; said tax to be assessed and collected in the same manner and at the same time as is now, or may be prescribed by law for the assessment and collection of state revenue.

County treasurer to keep separate fund, etc.

SEC. 22. It shall be the duty of the county treasurers in the several counties to preserve the fund thus provided for as a separate fund, and to transmit the same monthly to the State Treasurer, who shall keep the same in a fund to be known as the inspection fund.

Penalty for moving or allowing diseased sheep to stray from range.

SEC. 23. Any person or persons owning or keeping any flock or herd of sheep, any portion of which flock or herd may be diseased with the scab or any other contagious disease to which sheep are subject, shall be liable in the full amount of damage that may be occasioned to other sheep owners or holders by reason of such diseased flock or herd of sheep, or any part thereof, being moved or allowed to stray from its own range while in such diseased condition.

Repeal.

SEC. 24. Section two thousand five hundred and ninety-two (2,592) of the General Laws, and any other acts or parts of acts inconsistent herewith, are hereby repealed.

SEC. 25. Inasmuch as the time is near at hand to prepare for the spring round-ups, therefore this act shall take effect from and after its passage. Emergency.

Approved February 8, 1881.

AN ACT

TO REPEAL SECTION FOUR (4) OF AN ACT ENTITLED, AN ACT TO AMEND AN ACT TO PROVIDE FOR THE APPOINTMENT OF SHEEP INSPECTORS, APPROVED FEBRUARY 20, 1879.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section four (4) of an act to amend an act to provide for the appointment of sheep inspectors, approved February 20, 1879, be and the same is hereby repealed. Repeal.

Approved February 4, 1881.

AN ACT

TO PROVIDE FOR THE DISPOSAL OF TOWN LOTS AND THE PROCEEDS OF SALE IN TOWN SITES ENTERED ON THE PUBLIC LANDS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That when the corporate authorities of any town, or the judge of the county court, for any county in this state, in which any town may be situated, shall have Duty of corporate authorities or county judge.

entered at the proper land office, the land, or any part of the land settled and occupied as the site of such town, pursuant to, and by virtue of the provisions of the Act of Congress, entitled: An act for the relief of citizens of towns upon lands of the United States under certain circumstances, passed May 23, A. D. 1844, and any amendments that may be made thereto, it shall be the duty of such corporate authorities or judge (as the case may be), and they are hereby directed and required to dispose of and convey the title to such land, or to the several blocks, lots, parcels or shares thereof, to the persons hereinafter described, and in the manner hereinafter specified, and apply the proceeds of sale thereof under the following regulations:

How title conveyed.

SEC. 2. And such corporate authorities, or judge, holding the title of such lands in trust, as declared in the said Act of Congress, his or their successors, shall, by a good and sufficient deed of conveyance, grant and convey the title to each and every block, lot, share or parcel of the same to the person or persons who shall have, possess or be entitled to the possession or occupancy thereof according to his, her or their several and respective rights, or interest in the same, as they existed in law or equity at the time of the entry of such lands, or to his, her or their heirs or assigns. Every deed to be made by such corporate authorities or by such judge, pursuant to the provisions of this act, shall be so executed and acknowledged as to admit the same to be recorded.

Execution of deeds.

Notice of entry, how given.

SEC. 3. Within thirty days after the entry of such lands the corporate authorities or judge entering the same shall give public notice of such entry by posting notice thereof in at least three public places within such town, and by publishing such notice in a newspaper printed and published in the county in which such town shall be situated or, in case there shall not be any newspaper published in such county, then in some newspaper printed and published nearest to such town in this state. Such notice

Publication of notice.

shall be published once in each week for at least three successive weeks, and shall contain an accurate description of the lands so entered as the same is stated in the certificate of entry or duplicate receipt for the purchase money thereof, given by the land officers at the time of such entry. In case of entry of such lands by corporate authorities, the mayor or president shall give such notice in behalf of the town, in his official capacity.

Notice, what contain.

Mayor or president to give notice.

SEC. 4. Each and every person, or association, or company of persons claiming to be an occupant or occupants, or to have possession, or to be entitled to the occupancy or possession of such lands, or to any lot, block, share, or parcel thereof, shall, within ninety days after the first publication of such notice in person or by his, her, or their duly authorized agent or attorney, sign a statement in writing containing an accurate description of the particular parcel or parts of land in which he, she, or they claim to have an interest, and the specific right, interest or estate therein which he, she, or they claim to be entitled to receive, and deliver the same to or into the office of such corporate authorities or judge; and all persons failing to sign and deliver such statement within the time specified in this section shall be forever barred the right of claiming or recovering such lands, or any interest or estate therein, or in any part, parcel or share thereof, in any court of law or equity. In case any lots in such town remain unclaimed and unconveyed at the end of said ninety days, all such lots shall revert to and become the property of such town.

Persons claiming interest in lands entered to file statement.

What statement to contain.

Failure to file statement bars claim.

Reversion of land to town.

SEC. 5. The board of trustees of any such town shall appoint by order, resolution or ordinance, a board of appraisers to consist of three freeholders of any such town, who shall have no interest in such unclaimed or unconveyed lots or parcels of land or the improvements thereon. Each of said appraisers shall take an oath to faithfully discharge his duties as such appraiser, and shall file such oath in the office of the clerk of said board before commencing his duties as such appraiser. In case such appraisers

Appointment of appraisers.

Oath.

Upon failure of appraisers to act board may make new appointment.

should fail or neglect to make the appraisements hereinafter specified and file the same with the clerk of said board, for a period of more than ten days after their appointment, then said board may appoint a new board of appraisers for the purposes herein provided. It shall be the duty of such board to appoint such appraisers within thirty days after the time has expired for persons to present claims for lots in such town, or where that time has already expired, then within thirty days after this law goes into effect.

When appraisers to be appointed.

Manner of appraisement.

SEC. 6. Said appraisers shall appraise all lots or parcels of land, unclaimed or not conveyed by virtue of any law, in such town, at their just and full cash value, and file their written appraisements as aforesaid. Said appraisement shall contain a description of each lot or parcel of land so appraised, and a statement of the cash value of each lot and parcel of land. Said appraisers shall make a separate statement of the value of such lots and parcels of land without improvements, and the value of such improvements, and the aggregate value of both. There shall be attached to such appraisement a written affidavit of said appraisers, verifying each statement of such appraisement and alleging that each of such lots and parcels of land is appraised at its just and full value. This appraisement shall be required only in cases where the time has expired by prior laws for claimants to file their statements.

Appraisement to be verified.

In what cases appraisement shall be required

Notice of sale.

SEC. 7. The mayor or president shall upon the filing of such appraisements, give notice signed in his official capacity of the time and place of sale of such lots and parcels of land by an advertisement published once a week for three successive weeks in some newspaper published in the county where such town is situated, or, if no newspaper is published in said county, then in the paper published nearest such town. Such sale shall be advertised to be made at some public place in said town, and to be sold at some specified time between the hours of sunrise and sunset.

Publication of notice.

Notice to state time and place of sale.

Sale, how made.

SEC. 8. Such lots or parcels of land shall be sold at public vendue to the highest bidder for cash, and shall be offered for sale singly, unless a greater price can be obtained by selling several lots or parcels of land together, in which case several lots or parcels can be sold together, after an attempt first made to sell the same singly. Such sale may be continued, if necessary, from day to day, for a period not to exceed three days at any one sale. In case all said lands are not sold at first sale, the sale of the remaining lands shall be advertised as many times as may be necessary to sell said lands, and all sales subsequent to the first sale shall be advertised and conducted the same as the first sale. No lot or parcel of land shall be sold at less than its appraised value. A new appraisement may be had of all lands remaining unsold; *provided*, that such new appraisement shall not be made oftener than three months. Such new appraisement shall be made by a new board of appraisers, or the old board of appraisers to be appointed in the manner of the first board of appraisers.

Manner of procedure in case all not sold at first sale.

No sale to be made at less than appraised value.

New appraisement, when and by whom made.

Streets, parks, etc., how conveyed.

SEC. 9. If the title to any such lands shall be vested in any judge, such judge shall convey to any such town the land used or laid out by the town authorities or otherwise as streets, lanes, avenues, parks, commons and public grounds, within such time as herein prescribed for making conveyances to individuals and in the same manner; and the mayor or president may make such statements, in behalf of the town, showing the right of such town to such lands.

Limitation of time for conveyance of streets, parks, etc.

SEC. 10. In all cases in which the time has expired by virtue of any prior law for any such town to obtain such conveyances of any such public grounds from such judge, and in all other cases originating before the taking effect of this law, any such town shall have ninety days after this law shall come in force, to obtain said conveyance of any such streets, lanes, avenues, parks, commons and public grounds from such judge in the manner aforesaid.

When lots may be sold at private sale.

SEC. 11. In all cases where, subsequent to the time provided by law for persons to claim lots on such town

sites and prior to the taking effect of this law, any person may have entered thereon and improved any lots belonging to such town, such person, after the report of said board of appraisers and prior to public sale, may purchase any such lots from the said commissioners at private sale for cash at the appraised value of such lots, exclusive of improvements, unless there shall be adverse claimants to any such lots, in which case the respective rights of such claimants shall be determined as hereinafter provided.

Town may reserve lots and blocks for public use.

SEC. 12. The corporate authorities of any town may set apart and reserve any of said lots or blocks, not to exceed four blocks in all, nor situated in more than eight different blocks in any one town, for the public use of such town, for a town park or other purposes for the benefit of the public, in lieu of offering them for sale, and shall execute to such town a deed for said lots so reserved.

How proceeds of sale dispssed of.

SEC. 13. The proceeds received from said sales shall be disposed of as follows: *First*, they shall be applied to pay the expenses of said sale; *Second*, to discharge any outstanding claims incurred in entering the town site of said town; *Third*, the surplus, if any, shall be a special fund, to be held by such corporate authorities, to be used in making public improvements in such town.

If adverse claimants, either party may bring suit.

SEC. 14. In case there shall be adverse claimants to such lands, or to any part, parcel or share thereof, either party may bring a suit against the adverse claimant, or claimants, in the district court of the judicial district, or in any court of competent jurisdiction in the county in which the lands shall be situated, or in any county to which the county in which such lands shall be situate, is attached for judicial purposes; *provided, always*, that no judge of the district court, or county judge, who has been an adverse claimant directly or indirectly of any portion of the lands embraced within such town, or who is a party to any action brought to determine the right to a conveyance of any portion of the lands within such town shall entertain, hear or determine any proceeding in any action brought to de-

termine any such claims by or between any parties whomsoever; but in all such cases if the cause shall be pending in a district court, the judge thereof shall order all papers with a transcript of the record in the cause to be transmitted to another judicial district, as in cases of change of venue; and if the cause shall be pending in a county court, the judge thereof shall order all papers with a transcript of the record to be transmitted to the district court of said county, and the cause shall proceed in the courts to which the same is removed as if originally instituted in that court; *provided, also*, that the laws applicable to a change of venue shall apply to actions brought under this act; and, *provided, also*, that nothing in this act shall prevent the district judge, of the district in which such lands are situate, from executing any and all conveyances of such lands pursuant to the determination of such action. Suits shall be brought against adverse claimants as defendants, and it shall not be necessary to make the judge or corporate authorities parties thereto. The complaint must show what interest or estate in the lands in controversy the plaintiff claims. The answer, pleadings and other proceedings shall be as in cases in chancery, except that oral testimony may be introduced upon the trial, and the evidence, if not in the form of depositions, shall be reduced to writing, certified by the judge and filed with the papers in the cause.

Change of venue may be had, when.

Suits, how brought, etc.

SEC. 15. Upon the trial of any such action either party may give in evidence the statement mentioned in the fourth section, deposited by the other or by the person under whom he or she claims, with the corporate authorities or judge. And the person or persons who shall have first acquired the right to the possession or occupancy of such lands, either in person, or by agent, servant or tenant, or those claiming under him, her or them, shall be deemed to have the prior and paramount right to such lands: *proided*, that nothing in this section shall be so construed as to recognize the right of any person or persons who have virtually abandoned any land held as a town-site, to any title therein.

Evidence.

Prior right, how to be determined

When notice to be given to adverse claimants.

SEC. 16. In case suits shall not be brought for the purpose of settling or determining any controversy to any such lands by either of the adverse claimants, within sixty days after the expiration of the time for filing the statement, as provided in section four, it shall be the duty of the judge or corporate authorities to give notice to the adverse claimant last filing his claim, or if there be more than one adverse claim filed, then to the last adverse claimant, directing him to commence his action against the other claimants (as defendants) to determine their respective rights to said lands, within twenty days from service of notice on him, and in case such adverse claimant neglect or refuse to commence the action within the time specified, he shall be deemed to have waived and relinquished all right, title, interest and estate in the lands so in controversy, and be forever barred from asserting or claiming any right, title, interest or estate therein. Such notice shall be served by the proper officer of said courts in the same manner as now provided for service of summons in any county in this state. If the officer return such notice "not found," notice shall be made by publication for three weeks in some newspaper published in the county where the lands are situate; and if no paper be published in said county, then by posting such notice in three public places in the town where the lands are situate, and in addition thereto a copy of said notice shall be mailed to such adverse claimant at his residence or usual place of abode. And in case there be more than one adverse claimant, and the last neglect or refuse to commence his action after service of notice as aforesaid, said judge or corporate authorities shall serve like notice on the next last adverse claimant, until all have been notified as aforesaid. The provisions of this section shall apply to, and have the same effect of notice and forfeiture, as against any adverse claimants to lands and lots in townsites heretofore entered under said Act of Congress, after notice shall have been served as aforesaid.

When right to action waived.

Service of notice, how made

Summons, how served

SEC. 17. Whenever complaint shall be filed in any action commenced as provided in this act, summons shall

be issued against the proper parties and served upon the person or persons named therein as in other cases provided by law, or upon the agent or attorney of such person or persons who shall have filed the statement as required in section four of this act. And in case service cannot be had upon the defendants, their agents or attorney, the complainant shall file an affidavit in the office of the clerk of the court in which the action is pending, to the effect, and as now provided by law, it shall be lawful for the clerk of said court to cause publication to be made as now provided by law, and when such publication shall have been made, the cause shall proceed as if the parties had been personally served with summons.

Appeals.

SEC. 18. Appeals and writs of error shall be allowed, and may be taken and prosecuted from the judgments or decrees or any order of the courts in proceedings under this act, to the supreme court, as in other cases.

Statement of expenses of entry of lands, traveling expenses, etc., to be made by authorities or judge.

SEC. 19. Within ninety days from the first publication of the notice mentioned in the third section of this act, the corporate authorities or judge holding the title to the lands described in such notice shall make a true, full and complete statement in writing, containing a true account of all moneys by him or them expended in the acquisition of the title and execution of the trust to that time, including all moneys paid by him or them for the purchase of said lands, necessary traveling expenses, moneys paid for publishing and posting notices and proof thereof, and for all other necessary and proper expenses incident to such trust, and a true account of his or their reasonable charges for time and services employed in the business of such trust to that time, and all moneys by him or them expended and reasonable charges for compensation as aforesaid, which shall be and remain a first charge upon said lands in favor of the trustee, and paid by the several claimants entitled to such lands in proportion to the several quantities thereof to which they may be respectively entitled.

Above expenses to remain first charge against lands, in favor of trustee.

Payment to be made before delivering deed.

SEC. 20. Before said corporate authorities, through commissioners hereinafter provided, or judge, shall be re-

quired to execute, acknowledge and deliver any deed of conveyance to any person or persons claiming to be entitled to said lands and deed therefor, for such person or persons shall pay to him or them, through said commissioners, the sum of money chargeable on the portion to be conveyed according to the statement or account mentioned in section ten of this act, and in cases when the trust is held by corporate authorities, such additional sum as said corporate authorities may charge for the same, not exceeding five dollars for each five thousand square feet of such lands, and the further sum of one dollar for the execution and acknowledging of the deed, together with the sum of twenty-five cents for attestation, with the seal of the town by the town clerk. When the land is entered by a judge of the county court, deeds shall be signed by such judge, or his successor in office, under his private seal.

Limit of charge by authorities.

Deeds, how signed by judge.

Board may appoint commissioner to sell and convey.

SEC. 21. Said board may by order, resolution or ordinance, appoint a commissioner to sell and convey any such real estate, and to affix to any conveyance thereof the seal of such town, and have control of such seal for such purpose, and such conveyance executed in accordance with such order shall have the effect to transfer to the grantee named, a title in fee simple to any such real estate so conveyed. Said commissioner may be removed at the will of the board as often as it may see fit, by an order entered to that effect, and a new commissioner appointed with like powers. Said commissioner shall be a freeholder in such town and not a member of the board and have no personal interest in the lands so to be sold. Said commissioner shall, during his term of office, keep open an office in some public and well known place in such town, from ten o'clock A. M. till noon of each day, Sundays and holidays excepted, for the purpose of receiving payments from and executing deeds to persons who are entitled to deeds by reason of purchase and who have made improvements upon such lands as hereinafter stated. No claimant shall be allowed to suffer on account of the misconduct of such com-

Commissioner may be removed and new one appointed.

Qualifications of commissioner.

Office and hours of commissioner.

No claimant to suffer from misconduct of commissioner.

missioner in the discharge of his duties. Said commissioner shall receive such reasonable fees for his services as said board may prescribe. Before entering upon his duties such commissioner shall enter into a bond with good and sufficient sureties to be approved by the board, and in a sum to be approved by the board, executed in behalf of the town, with obligations to faithfully account to the board for all money received and to pay the same over to the town treasury.

Pay of commissioner.

Bond.

SEC. 22. When the land is entered by a judge of the county court, deeds shall be signed by such judge or his successor in office, under his private seal. Such judge shall make such conveyance by deed to said town at private sale upon the payment by said town of the cost of the proceedings and sale.

Judge to sign and seal deeds.

SEC. 23. The clerk or recorder of any such town, shall at once make a copy of any such order, resolution or ordinance appointing any such commissioner, certified by such clerk or recorder under the seal of the town, and deliver the same without delay to the recorder of any county in which such town shall be situated. Such recorder shall file and record such copy, and the certificate thereof of such order, resolution or ordinance, and shall receive fees therefor at the same rate as for deeds. The record of such copy and certificate shall have the same effect in evidence as is now provided for the record of "powers of attorney."

Clerk to make copy of order appointing commissioner, for county clerk.

Order to be recorded by county clerk.

Fees.

Effect of record in evidence.

SEC. 24. At any time after expiration of ninety days from the time of first publication of the notice mentioned in section three of this act, the corporate authorities or judge shall, upon demand or request, and payment as required by section eleven of this act, execute, acknowledge and deliver to each and every claimant or association or company of claimants to such lands or any parcel thereof, a deed of conveyance therefor according to the statement made and deposited by him or them, pursuant to the fourth section of this act; *provided, however*, that no such deed

Deeds to be made upon demand after 90 days from first publication of notice.

Proviso.

of conveyance shall be executed or delivered for any part, portion or share of such lands, to which there shall be adverse or contesting claimants, until the controversy thereon has been settled and determined in the manner described in this act.

When title to lands claimed by judge deemed perfect.

SEC. 25. In case any judge who shall have entered such land, and thus have become the sole trustee thereof, shall be possessed or entitled to any part or portion of such lands in his individual right, and his claim or right shall not be claimed adversely to him, he shall be deemed to be seized and possessed of the title thereto, and the estate therein to his own use in fee simple, absolute, free and discharged of such trust, and no conveyance other than the patent of the lands including the same, shall be necessary to perfect his title thereto. But in case such lands, or share in such lands so claimed by him in his individual right, shall be claimed by any person adversely to him, the conflicting claims between them shall be settled and determined by an action as provided in this act, and tried before some judge who shall be disinterested and possessed of complete jurisdiction for the trial thereof.

When and how title acquired to streets, parks, etc.

SEC. 26. Whenever the title to any such lands shall be vested in any judge he shall convey to the proper or legal authorities, so much of the land as is or shall be laid out by the town authorities into streets, lanes, avenues, parks, public grounds, and commons, within the time herein prescribed for making conveyances to individuals. But when the title to such lands shall be held by the corporate authorities of any town, all lands used, laid out or designated, for public uses by such corporate authorities, as streets, lanes, avenues, alleys, parks, commons and public grounds, shall vest in and be held by the corporation absolutely, and shall not be claimed adversely by any person or persons whomsoever, and it shall not be necessary to execute any conveyance for the same to the corporation or people of such town.

SEC. 27. Each and every person, association and company of persons who shall be entitled to any lots, pieces or parcels of land so held in trust by the authorities of any incorporated town, and respecting which there shall be no controversy, shall within three months after the expiration of the time for filing statements as provided in section three, pay to such corporate authorities the sum of money chargeable upon such piece or parcel of land, and the fees for executing a deed therefor, and in case of failure so to do, such person or persons shall be deemed to have relinquished all right, title, interest or estate therein, and such corporate authorities shall thereafter be, and deemed to be, seized of the title thereto in fee simple, absolute, free and discharged of such trust and no conveyance other than the patent of the lands including the same, shall be necessary to perfect their title thereto; and also all persons, company or association of persons, who by the determination and judgment of the court shall be adjudged to have the rightful title to such lands, shall within three months after such adjudication and judgment, pay to such corporate authorities the sum of money chargeable on such lands together with fees for executing a deed to the same, and in case of failure so to do, such person, company or association shall be deemed to have relinquished all right, title, interest or estate in said lands, and such corporate authorities shall be, and deemed to be seized and possessed of the title thereto to their own use in fee simple, absolute, and no further conveyance shall be necessary to perfect their absolute title thereto.

Failure to pay charges and fees within three months, deemed waiver of right thereto.

Reversion of title.

Failure to pay within three months after adjudication and judgment, waives right.

Reversion of title.

SEC. 28. All costs of proceedings in actions under this act, including fees for service of all writs, and notices, and clerks' fees, shall be as now provided by law for service of writs in other actions, and shall be taxed and collected as now provided by law in other cases.

Costs.

SEC. 29. That article twelve of chapter eighty-four, revised statutes of Colorado, entitled towns and cities, and all acts amendatory thereto are hereby repealed; *provided*,

Repeal.

however, that this repeal and provisions of this act shall not in any manner impair the rights of towns and cities heretofore incorporated under the laws of Colorado, but all such corporations are hereby recognized, and all acts relating to entry of town sites under and by virtue of the provisions of said chapter eighty-four, are hereby confirmed; and *provided, also*, that this repeal shall in no manner affect any suits or proceedings commenced and undetermined under and by virtue of the provisions of said chapter eighty-four.

Approved March 1, 1881.

AN ACT

TO ENCOURAGE THE PLANTING OF TREES UPON THE ROADSIDES AND ALONG THE LINE OF IRRIGATING CANALS AND UPON LANDS UNDER IRRIGATION.

Be it enacted by the General Assembly of the State of Colorado:

Planting of trees not to increase assessment of land.

SECTION 1. That whenever the owner or occupant of land under irrigation within this state, has, or shall hereafter plant any fruit or forest trees, there shall not be added any increased valuation in the assessment of said land by reason of the gain in value that may be acquired by reason of such planting and cultivation, within a period of ten years thereafter.

Premium for planting forest trees.

SEC. 2. That whenever a line of forest trees, not less than sixteen feet apart, shall hereafter be planted, at not more than eight feet from the outer line of a highway upon which his land may border, or along ditches within his land, and kept in good growing condition for three years, there shall be paid as a premium to such owner of the said land, on the fourth year, and for the next six years following, the sum of two dollars for every one hundred trees so planted, provided that said trees be so long kept in good growing condition.

SEC. 3. Any person injuring or destroying any tree or trees planted upon the roadside, or along the line of irrigating canals, or upon private lands, shall be liable for thrice the amount of damage done, to be recovered in a civil action; and in case of malicious injury, he may be further prosecuted for misdemeanor. Penalty for injuring trees. Malicious injury

SEC. 4. In case of any damage done to planted trees by domestic animals, the owner of said trees may recover full damage from the owner of said animals, as provided in the last preceding section of this act; *provided*, said trees are planted inside of a lawful fence, or boxed to a height of not less than five feet. Damage by animals, when and how recovered.

SEC. 5. The county assessor [assessors] in making their returns, shall report the number of trees upon which such premium may be due, under the second section of this act, and may require evidence of the number and condition of said trees, as in other statements by the owners of taxable property. Assessor to report premiums due.

SEC. 6. The State Auditor shall include in each official report of assessments made to the Governor, a statement by counties, of the number of trees, and the amount of premiums paid under this act. Auditor to report to governor.

SEC. 7. In case of any unusual success in the growth or management of plantations of trees under this act, the assessors are hereby required to report as fully as practicable, the kind or species of trees, and any facts concerning their care and management that may have been observed. Such special reports shall be written upon separate sheets of paper, and shall be transmitted by the assessor to the State Auditor, who shall transmit the same to the secretary of the board of agriculture for the information of the said board; such premium to be paid by the collector of revenue for the county in which such trees may be growing, upon the certificate and affidavit of the county assessor, and such collector shall be allowed pay out of the state treasury for the same. Further report of assessor. Premiums, how paid.

Approved February 12, 1881.

AN ACT

TO PROVIDE FOR THE REGISTRATION AND ORDER OF PAYMENT OF CITY AND TOWN WARRANTS, AND TO PROVIDE A PENALTY FOR REFUSAL OF TREASURER TO PAY IN ACCORDANCE THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

City or town treasurer to keep register of orders; what register to contain.

SECTION 1. Every treasurer of any incorporated city or town of this state shall have and keep in his office a book, to be called the registry of city or town orders, wherein shall be entered and set down, at the date of the presentation thereof, and without any interval or blank line between any such entry and the one preceding it, every city or town order, warrant, or other certificate of such town or city indebtedness, at any time presented to such town or city treasurer for payment, whether the same is paid at the time of presentation or not, the number and date of such order or certificate, the amount, the date of presentation, and the name of the person presenting the same, and the particular fund, if any, upon which the order is drawn. Every such registry of city or town orders shall be open at all seasonable hours to the inspection and examination of any person desiring to inspect or examine the same.

Register to be open for inspection.

Payment to be made in order of presentation.

SEC. 2. Every fund in the hands of any treasurer of any such city or town of this state for disbursement, shall be paid out in the order in which the orders drawn thereon, and payable out of the same, shall be presented for payment.

Orders, warrants, etc., presented prior to taking effect of this act, and not paid, shall, upon presentation to treasurer after this act takes effect, be registered in order of presentation.

SEC. 3. All orders, warrants or other certificates of indebtedness of any such town or city, having been presented for payment to the treasurer of such city or town, before the passage of this act, the same not having been paid, for want of funds applicable to such payment, shall, upon presentation to the treasurer of the city or town

upon which they are drawn, after the passage of this act, be registered in the order of the date of presentation, as shown by the endorsement of the treasurer on such warrants; and all such orders so registered shall be paid in the order of the date of such presentation the same as though registered at the date of presentation.

Penalty for failure or neglect to comply with provisions herein.

SEC. 4. Any city or town treasurer, or his deputy, who shall fail or neglect to keep such registry, or who shall fail or neglect to register any warrant or certificate of indebtedness of such town or city as shall be entitled to registry, or shall neglect or refuse to pay such warrants or certificates in the said order of payments, there being then money in the treasury applicable to the payment thereof, or wherefrom the same ought to be paid, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than one hundred dollars, and not more than five hundred dollars.

Approved February 11, 1881.

AN ACT

TO ESTABLISH THE RATE OF INTEREST ON STATE WARRANTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. State warrants shall bear interest at the rate of six (6) per cent. per annum from the date of their presentation for payment.

SEC. 2. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. As it is essential to the best interests of the state that all unnecessary expenses of carrying on the state

government be curtailed as speedily as possible, this act shall take effect and be in force from and after its passage.

Approved March 9, 1881.

AN ACT

TO PROVIDE FOR THE RECORD OF WILLS DEVISING REAL ESTATE AND THE PROBATE THEREOF, AND ALL OTHER DECREES IN PROBATE OF SUCH COUNTY COURTS DETERMINING THE DESCENT OF REAL ESTATE, AND FOR THE EFFECT OF SUCH RECORD AS EVIDENCE.

Be it enacted by the General Assembly of the State of Colorado:

Wills, probate thereof, etc., to be recorded by county clerk.

SECTION. 1. Any will in writing for the devise of real estate in this state, that shall have been executed heretofore or shall be executed hereafter, together with the probate thereof and the certificate hereinafter mentioned, may be recorded in the office of the recorder of each and every county wherein any of such real estate so devised may be situated; and all other decrees in probate of such county courts, that shall have been rendered heretofore or that shall be rendered hereafter, determining the descent of real estate, together with the certificate hereinafter mentioned, may in like manner be recorded. In case any decree or order, by certified copy or otherwise, of any appellate court is, or shall be, filed in any such county court for the government thereof in the premises, a copy of the same shall be attached to any such will and probate thereof or to such decree as the case may be, and certified with the other papers as aforesaid.

Decree or order of appellate court to be attached to will.

Clerk of county court to furnish copies of papers.

SEC. 2. The clerk of any county court, upon demand, shall furnish to any party in interest copies of any such papers and records properly attached and certified by

him under the seal of such court, and the same shall thereupon be admitted to record accordingly.

SEC. 3. Such record of any such certified will and probate thereof, and of any such decree, and of said accompanying papers and records, in relation to any such will or decree, shall be received in all courts of this state as evidence of the title to any real estate so devised by will or determined by decree, to the same extent as the record of deeds to real estate in such office. Record to be received in evidence.

SEC. 4. Any such county clerk shall be entitled to the same fee as in other cases of the certification of copies of records in his office, and any such recorder shall be entitled to the same fee as in cases of deeds to real estate. Fees of clerk.

Approved February 11, 1881.

AN ACT

TO AMEND SECTION TWO OF AN ACT ENTITLED AN ACT TO REPEAL CHAPTER ONE HUNDRED AND FIVE OF THE GENERAL LAWS OF THE STATE OF COLORADO, ENTITLED "WOLVES AND COYOTES AND FOR OTHER PURPOSES," APPROVED JANUARY 31ST, 1879.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section two of an act entitled "An act to repeal chapter one hundred and five of the General Laws of the state of Colorado, entitled 'Wolves and Coyotes,' and for other purposes," approved January 31st, 1879, be so amended as to read as follows, to wit: Sec. 2. That any person who shall kill any wolf or coyote or any number of wolves or coyotes within this state shall receive a premium of one dollar and fifty cents for each wolf or coyote so killed; and any person who shall kill any Premium for killing wolf, coyote, skunk or polecat.

skunk or polecat or any number of skunks or polecats within this state, shall receive a premium of twenty-five cents for each skunk or polecat so killed, to be paid out of the state treasury as hereinafter provided.

Approved February 8, 1881.

WILLIAM H. DOE,
Speaker of the House of Representatives.

HENRY R. WOLCOTT,
President of the Senate, pro tem.

FREDERICK W. PITKIN,
Governor.

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ERRATA.

In post-office address of Judge Burris of 7th Jud. Dist., for "Del Norte" read "Silverton."

In list of members of Senate, read L. W. Wells, Sedalia, Douglas County.

In list of members of House, read Wm. H. Doe, Idaho Springs, Clear Creek County.

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